

poses; to the Committee on Interior and Insular Affairs.

By Mr. HORTON (for himself, Mr. ABUREZK, Mr. ADDABBO, Mr. BOLAND, Mr. CONTE, Mr. EDWARDS of California, Mr. ESCH, Mrs. GRASSO, Mr. GUDE, Mr. HALPERN, Mr. HARRINGTON, Mr. HELSTOSKI, Mr. LEGGETT, Mr. McCLOSKEY, Mr. MAZZOLI, Mr. MOSHER, Mr. PIKE, Mr. ROBISON of New York, Mr. ROSENTHAL, and Mr. SCHEUER):

H.R. 8387. A bill to provide a procedure for the exercise of congressional and executive powers over the use of any Armed Forces of the United States in military hostilities, and for other purposes; to the Committee on Rules.

By Mr. KOCH (for himself and Mr. CAREY of New York):

H.R. 8388. A bill to provide for the treatment of members of the Armed Forces who are narcotics addicts; to the Committee on Armed Services.

H.R. 8389. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the development and operation of treatment programs for certain drug abusers who are confined to or released from correctional institutions and facilities; to the Committee on the Judiciary.

H.R. 8390. A bill to amend the Social Security Act to provide that Federal welfare payments may be made with respect to an individual who qualifies therefor on the basis of drug-caused disability or incapacity only if such individual is undergoing appropriate treatment; to the Committee on Ways and Means.

By Mr. McCLOSKEY:

H.R. 8391. A bill to protect ocean mammals from being pursued, harassed, or killed; and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. McMILLAN (for himself and Mr. CABELL) (by request):

H.R. 8392. A bill to provide additional revenue for the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. MOORHEAD:

H.R. 8393. A bill to amend the Housing and Urban Development Act of 1970 to provide a more effective approach to the problem of developing and maintaining a rational relationship between building codes and related regulatory requirements and building technology in the United States, and to facilitate urgently needed cost-saving innovations in the building industry, through the establishment of an appropriate nongovernmental instrument which can make definitive technical findings, insure that the findings are made available to all sectors of the economy, public and private, and provide an effective

method for encouraging and facilitating Federal, State, and local acceptance and use of such findings; to the Committee on Banking and Currency.

By Mr. MURPHY of New York:

H.R. 8394. A bill to amend the Gun Control Act of 1968; to the Committee on the Judiciary.

By Mr. PERKINS (for himself, Mr. THOMPSON of New Jersey, Mr. QUIE, Mr. DENT, Mr. PUCINSKI, Mr. DANIELS of New Jersey, Mr. BRADEMAS, Mr. O'HARA, Mr. REID of New York, Mr. WILLIAM D. FORD, Mr. SCHEUER, Mr. MEEDS, Mr. DELLENBACK, Mr. ESCH, Mr. STEIGER of Wisconsin, Mrs. CHISHOLM, Mr. BIAGGI, Mr. HANSEN of Idaho, Mrs. GRASSO, Mr. FORSYTHE, Mrs. HICKS of Massachusetts, Mr. VEYSEY, Mr. MAZZOLI, and Mr. KEMP):

H.R. 8395. A bill to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services and for vocational evaluation and work adjustment, to authorize grants for rehabilitation services to those with sensory disabilities, and for other purposes; to the Committee on Education and Labor.

By Mr. RYAN:

H.R. 8396. A bill to amend section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) to make States and units of local government liable for deprivations of constitutional rights by officers employed by them; to the Committee on the Judiciary.

By Mr. SISK (for himself, Mr. ANDERSON of Illinois, Mr. BERGLAND, Mr. BYRON, Mr. CLARK, Mr. DENNIS, Mr. FINDLEY, Mr. FISH, Mr. FRELINGHUYSEN, Mr. GARMATZ, Mr. GOODLING, Mr. HANSEN of Idaho, Mr. HARSHA, Mr. HATHAWAY, Mr. HOGAN, Mr. KING, Mr. KYL, Mr. LANDGREBE, Mr. LEGGETT, Mr. LUJAN, Mr. McCORMACK, Mr. MCDADE, Mr. McFALL, Mr. McMILLAN, and Mr. MATHIS of Georgia):

H.R. 8397. A bill to create a National Agricultural Bargaining Board, to provide standards for the qualification of associations of producers, to define the mutual obligation of handlers and associations of producers to negotiate regarding agricultural products, and for other purposes; to the Committee on Agriculture.

By Mr. SISK (for himself, Mr. MAYNE, Mr. MICHEL, Mr. MILLER of California, Mr. NIX, Mr. PEPPER, Mr. RAILSBACK, Mr. RARICK, Mr. SANDMAN, Mr. SCHWENDEL, Mr. SEBELIUS, Mr. SHRIVER, Mr. STRATTON, Mr. STUBBLEFIELD, Mr. TEAGUE of California, Mr. THOMSON of Wisconsin, Mr. ULLMAN, Mr. VIGORITO, Mr. WYATT, Mr. YATRON, Mr. ZWACH, Mr. JONES of

Tennessee, Mr. KYROS, Mr. STAFFORD, and Mr. FIRNIE):

H.R. 8398. A bill to create a National Agricultural Bargaining Board, to provide standards for the qualification of associations of producers, to define the mutual obligation of handlers and associations of producers to negotiate regarding agricultural products, and for other purposes; to the Committee on Agriculture.

By Mr. SISK (for himself, Mr. DELLENBACK, Mr. ESHLEMAN, Mr. THONE, Mr. WIDNALL, Mr. HUNT, and Mr. WHALLEY):

H.R. 8399. A bill to create a National Agricultural Bargaining Board, to provide standards for the qualification of associations of producers, to define the mutual obligation of handlers and associations of producers to negotiate regarding agricultural products, and for other purposes; to the Committee on Agriculture.

By Mr. SCHNEEBELI:

H. Con. Res. 302. Concurrent resolution to declare a national policy on the stabilization of the purchasing power of the dollar; to the Committee on Banking and Currency.

MEMORIALS

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

171. By Mr. BARING of Nevada: Memorial of the Senate and Assembly of the State of Nevada, jointly; that the legislature of the State of Nevada memorializes the Congress of the United States to complete construction of the Lahontan Federal Fish Hatchery in the State of Nevada, to turn operation and management of the project over to the State of Nevada through its properly designated bureau or department, and to fund such operation and management by the designated bureau or department of the State; to the Committee on Merchant Marine and Fisheries.

172. By the SPEAKER: Memorial of the Legislature of the State of Vermont, ratifying the proposed amendment to the Constitution of the United States extending the right to vote to citizens 18 years of age and older; to the Committee on the Judiciary.

173. Also, memorial of the Legislature of the State of Nevada, relative to completion of the Lahontan Federal Fish Hatchery; to the Committee on Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. WAGGONER introduced a bill (H.R. 8400) for the relief of Lennie LeBlanc, which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

THE MIG-23 FOXBAT FIGHTER, A DISTURBING DEVELOPMENT

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. WHALEN. Mr. Speaker, the authoritative Aviation Week & Space Technology magazine recently published an article—April 19, 1971—dealing with

the interceptor version of the Mig-23 Foxbat fighter, now being furnished to Egypt.

I was disturbed to note the very high performance capability of the aircraft, particularly the Mach 3.2 speed plus the ability to operate at altitudes well above 60,000 feet. My concern relates specifically to how the Foxbat compares with the F-14/F-15 fighters we currently are bringing just to prototype stage.

I have been assured by military officials that both of our new fighters will be able to hold their own below 40,000

feet with Foxbat. I take that assurance with some reservation. But the question I believe is more to the point is "What about altitudes above 40,000 feet?" Are we relinquishing that portion of the airspace, in hypothetical combat, for the Foxbat to roam at will?

Are we, in fact, committing ourselves to build new aircraft whose specifications are less than those of Foxbat?

The F-4 will require a replacement in the years ahead. But if that replacement is inferior to what the Soviets already possess, are we justified in building it?

The state of the art should be pushed to provide us with a superior fighter, not merely another fighter at a cost of billions of dollars.

PAMPA STUDENTS WORK FOR POW HUMANE TREATMENT

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. PRICE of Texas. Mr. Speaker, I would like my colleagues in the House of Representatives to know that 300 students from Pampa High School, Pampa, Tex., have each signed an individual letter written to the Communist leaders in Hanoi, urging them to provide humane treatment to American prisoners of war in North Vietnam.

Pampa, Tex., is my hometown, Mr. Speaker. Thus I take special pride in what these young people have done. They are speaking out for justice in the best traditions of our country. It is young people like these who will one day guide the destiny of this Nation, not the Rap Browns, the Stokley Carmichaels, or the Jerry Rubins.

For the benefit of the general membership, I am inserting into the CONGRESSIONAL RECORD, a copy of the letter sent by the 300 Pampa students and a list of their names. I hope this will inspire other Members of Congress who are deeply concerned about the American prisoner of war problem to initiate similar projects in their own congressional districts.

The letter and signators follow:

I am writing this letter neither as an advocate nor as an opponent of the Viet Nam War, but as an American, extremely concerned about the treatment of Americans being held prisoners of war in North Viet Nam. I feel that humane treatment of these men is a matter of grave importance.

I appeal to you to allow the men in prison to send and receive mail, release the sick and wounded, identify and acknowledge each man held prisoner for benefit of his grieved family, and allow neutral inspections of the prisons. These requests would in no way deter your aim in fighting the war, but will ultimately enhance your position amid world opinion.

I hope that this letter and others like it from concerned American citizens will help to improve conditions for our men you hold captive. My appeal is in the name of humanity.

Sincerely,

Sherry Warren, Myrna Smith, Wendy Hills, Donna McMinn, Loretta Laffin, Lori Perillaux, Teresa Heckman, Jeff Clark, Dough Hughes, Stacey Boddy, Peggy Caldwell, Julie Cree, Freddie Rockelle, David Christy, John Phaxton. John Darnell, David Putman, Jim Sargent, Tylor Drinnon, Jean Hawey, Debbie Aufleger, Kevin Reeves, David Heuston, Letha Watts, Stephanie Eastham, Pattie Sims, Linda Reed, Mike Fraser, Robyn Caldwell, James Carter.

Dean Putman, Shirley Nuns, Cheryl Wallace, Clay Stephens, Steve Boyd, Lea Ann Hudson, Mike Cole, Lynn Richardson, Nancy Rafferty, Roxanne Hatcher, Donna Hillman, Mary Lynne Zellars, Debbie Erwin, Diana Colby, Shonda Roye.

Melvin Rainey, Levi Friend, Gayla Rigby, Donna Thompson, Kelly Neuman, Lisa Pettit, Kathy Dawson, Mitzl Lei McCoy, Kim Buzzard, Jan Harvey, Bobby Dougless, Tommy Washington, Richard Gibson, Becky Parker, Karen Snapp.

DIAnn Bicknell, Cindy Rogers, Allen Ebenkamp, Terry Hall, Linda Hunt, Becky Poole, Phillip Seely, Mike Blacklock, Linda Pereboom, Joanie Baumgardner, Jayne McCausland, Susan Morrison, Lori Gowdy, James Hoskins, Kathy Kille.

Carla Combs, Frank D. Anderson, Pamela Welch, Robert Wood, Teddy Widdle, Jack King, Doug Ivy, Larry Harris, Dixie Douglass, Randy Robertson, Gayle McKinley, Kathy David, Tami Lynn Tibbits, Pam Soukup, Gayla Drinnan.

Jeri Bohlander, David Vannon, Susan Evans, Danny Kohler, James Miller, Gretchen Wells, Patricia Nalte, Gary Doirs, Bob Campbell, Randy Cain, Jackie Curtis, Floyd Huff, Mike Johnson, Gradene Underwood, Leanna Odell.

Linda Willis, Dana Rogers, Roy Morris, Randy Ford, Jimmy Wells, Troves Gilbert, Susan Edwards, Pam Russell, Royal Lantz, Cynthia Strube, Mike D. Enloe, Vickie Knight, Melanie Miller, Bobby Chance, Stephen Knox.

Janet Whitesell, Greg Arledge, Barry Schulz, Lee French, Beverly Moseley, Nancy Everett, David Chambliss, Mike Hessel, Greg Atchley, David Waggoner, Mike Morrers, Robin Scarbrough, Sherri Laycock, Terry Morris, Roger Wilson.

Mark Williams, Charles Smith, Doug Givkan, Loree Matthews, Anita Willett, Scott Bonner, Marsha Holland, Jenny Browder, Vickie Carter, Robbi Harris, Vickie Jouett, Kayla Layka, Jimmy Stares, Kyde Terrell, Leanne Hall.

Sharon Lockhart, Mike Franklin, Jane Boyd, Kirk Bogard, Chris Stone, Mike Copeland, Ricky Pope, Mollie Jackson, Lanita Kittle, Sharon Farmer, Tom Weyandt, Ronnie Heidebrecht, Jacquelyn Kilcrease, Kathy Ellis, Darlis Matthews.

Sandra Clark, Debbie Lehnick, Selena Scoggin, Ted Brown, Mark Coulter, Leigh Ann Jeffers, Richard Kohler, Susan Lockhart, Mike Lyle, Gary Richards, Julie Tyler, Dreka Weatherly, Sonya Keen, Hilarie Stewart, David Hampton.

Sherry Vandagriff, Donna Henley, Jammy Ledbetter, Ricky Brayle, Brian Kip Watkins, Judy Lankford, Mike Shaw, Tamra Wilson, Rae Stone, Jan Gray, Ann Waldrop, Karan Hester, Deborah Welch, Kelly Emmons, Billy Edwards.

Buck Arrington, Cindy Horton, Paula Holland, Bill Douglas, Steve Gruver, David Boyd, Toni Cox, Randy Watson, Joe Phillips, Nancy Burnham, Darrell Danner, Nancy Nills, Tim Neslage, Donnie Bennett, Vondel Simmons.

Kim Hill, Melanie Arrington, Shelly Plicher, Kathy Davis, Mike Powell, Tami Douthit, Gary Thrasher, Nova Mayo, Susie Botkin, Susan Richardson, Patti Marshall, Walter Young, Troy Hester, Tamara Rainbalt, Michelle Courtney.

Joyce Minyard, Teresa Smith, Randy Linville, Travis Swindell, Jerry Sims, Buck Buchanan, Melba Martin, James Haines, Larry E. Crouch, Steve Marero, Vincent Di Cosimo, Richard Lane, Mark Warren, Alan Been, Terry Neslage.

Paul Ortego, Ed Tornsley, Sary Zall, Rocky Nichols, Jimmy Kell, Royanne Crossthwaite, Niki Fletcher, Joanne McCausland, Vance Graham, Joe Rich-

ardson, Roy Lenning, Debra Harris, Monte Kempf, Larry Starback, Wiley McIntire.

Frank Morrison, Irene Haesle, Russell Mitchell, Vickie Lantz, Zindi Epperson, Beverly White, Cynthia Ball, Janet Tivis, Tammy Long, Joe Winton, Brenda Been, James Gann, Mathew Edwards, Kellie Langham, Margaret Thompson.

Ronny Willett, Rick Hayes, Sharon Roberts, Sheila Kastor, Patrick Olonnor, Jimmie Kille, Jim Grady, Ron C. Darnell, Dana Chisum, Michelle Gadek, Danny McGuire, Pat Everett, Shelly Woodridge, Lester Hillman, Mark Klepper, LaDaina Hyatt.

RESULTS OF LEGISLATIVE QUESTIONNAIRE

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 11, 1971

Mr. QUILLEN. Mr. Speaker, shortly after the President's state of the Union message I sent a legislative questionnaire to the postal patrons in my congressional district.

The six questions included dealt entirely with the President's six proposals as outlined in his message.

The returns have been tabulated, and I think it is interesting to note that the response rate in my district was 18.2 percent—twice the normal average for the return of legislative questionnaires.

This week I am sending the results of the returns to the residents of my district in a special report from Washington.

I would like to make the results available for readers of the RECORD:

REPORTS FROM WASHINGTON

(By Congressman JAMES H. QUILLEN)

WASHINGTON, D.C.,

May, 1971.

DEAR FRIENDS: It is my pleasure to send you the results of my 1971 legislative questionnaire in this special Report from Washington.

This year I devoted all of the questions to the six proposals President Nixon outlined in his State of the Union message to Congress and I am pleased to report that I received an excellent response.

The survey went in the mail to some 150,000 postal patrons in the First Congressional District and a total of 27,264 individuals responded—a return rate of 18.2 percent. This unusually high rate of response clearly indicates to me that the people of the First District continue to be keenly interested in the affairs of our country.

For the second consecutive year, I included on the questionnaire a "His" and "Hers" column to record the person's "Yes" or "No" vote. I received 25,129 responses from husbands and wives, 1,690 from men reporting only for themselves, and 1,445 from women reporting only for themselves.

Interestingly, there was almost no difference in the answers of husbands and wives. In fact, throughout the survey the opinions of the men and women coincided very closely on all issues.

The question receiving the highest favorable response was number six—"Do you favor new proposals to clean up the air and water, to combat noise, to preserve and restore our surroundings, and to expand the nation's parks?" The results reveal that 93.8 percent "His" and 93.5 percent "Hers" favor the plan. From the results, it appears that

President Nixon's plans to improve the ecology of our nation are receiving the support of more and more people. Last year a similar question on the environment received the approval of slightly more than 85 percent of the people.

The President's revenue-sharing plan with state and local governments involving \$16 billion in Federal funds, allowing \$5 billion to be spent with no strings attached was favored by 54.1 percent of the men and 51.1 percent of the women. This apparently reflects some lessening of support for revenue-sharing, as compared with last year's survey wherein 78.2 percent "His" and 77.0 percent

"Hers" favored returning a percentage of Federal tax money to the states. Although this question was not overwhelmingly favored, the response does prove to me that the people believe their local and state governments face serious financial problems.

The question of whether the number of Cabinet departments should be reduced from twelve to eight was favored by 74.0 percent "His" and 72.0 percent "Hers."

Returns also show that 79.9 percent "His" and 81.2 percent "Hers" favor improved health care, including guaranteed medical care for the poor and an extra \$100 million to help find a cure for cancer.

Question number two—"Do you approve of welfare reform, including a guaranteed annual income for every family with children?"—was the only one turned down by those responding, with 59.7 percent "His" and 57.9 percent "Hers" opposed to a guaranteed income proposal. However, welfare reform without a guaranteed wage was favored.

By a small majority, question number five—"Do you favor an expansionary (deficit) Federal budget this year to help stimulate the economy and decrease the rate of unemployment?"—was also favored, with a response rate of 57.8 percent "His" and 57.9 percent "Hers."

OVERALL DISTRICT RESULTS

[In percent]

	Yes		No		Undecided	
	His	Hers	His	Hers	His	Hers
1. Do you favor a revenue-sharing plan with State and local governments involving \$16,000,000,000 in Federal funds, allowing \$5,000,000,000 to be spent with no strings attached?.....	54.1	51.1	42.6	44.3	3.3	4.6
2. Do you approve of welfare reform, including a guaranteed annual income for every family with children?.....	33.4	35.3	59.7	57.9	6.9	6.8
3. Do you favor improved health care, including guaranteed medical care for the poor and an extra \$100,000,000 to help find a cure for cancer?.....	79.9	81.2	17.6	16.2	2.5	2.6
4. Do you favor a reduction of the present 12 Cabinet departments to 8, leaving the Departments of State, Treasury, Defense, and Justice as they are and consolidating the others into Departments of Human Resources, Community Development, Natural Resources, and Economic Development?.....	74.0	72.0	20.8	19.8	5.2	8.2
5. Do you favor an expansionary (deficit) Federal budget this year to help stimulate the economy and decrease the rate of unemployment?.....	57.8	57.9	39.2	36.7	3.0	5.4
6. Do you favor new proposals to clean up the air and water, to combat noise, to preserve and restore our surroundings, and to expand the Nation's parks?.....	93.8	93.5	4.8	4.7	1.4	1.8

Please let me take this opportunity to express my sincere thanks for such a generous response to my questionnaire. I am also deeply grateful for the many hundreds of letters I received expanding and clarifying your views on the questions.

Your opinion is of great value to me in representing you.

SALVADOR RODRIGUEZ, AN OUTSTANDING AMERICAN

HON. JERRY L. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. PETTIS. Mr. Speaker, I have the honor of commending to the attention of the Congress a resident of my district who has proven himself an outstanding American.

Mr. Salvador Rodriguez, who was born in Tepitlan, Jalisco, Mexico, on April 18, 1895, came to this country when he was only 20 years old. Since that time he has devoted his time and energy toward building a record of service. Mr. Rodriguez worked for the Santa Fe Railway, an important link in our heritage of transcontinental expansion. He was one of the founders of the San Bernardino Mexican Chamber of Commerce and served as its president for two terms. An active member of the Knights of Columbus in the Our Lady of Guadalupe Parish, Mr. Rodriguez was one of nine members in the San Diego diocese designated by Pope Paul VI to receive the Knighthood of St. Gregory, an honor given to lay persons for outstanding service to the community and to the church. The owner of the

Mitla Cafe and in the forefront of the ranks of San Bernardino's businessmen since 1937, Mr. Rodriguez has exemplified the spirit in which our Nation was founded and which we need especially to remember in these times of confrontation—he has always remembered his Mexican heritage while proving, through his efforts to inspire civic pride and constructive action, that he is truly an American.

In Resolution No. 455, the California State Legislature voted to "commend Salvador Rodriguez for his outstanding civic and business contributions to his community and wish him success in the future." I am sure that my colleagues are proud, as am I, to have Mr. Rodriguez's achievement recorded before this assembly.

VIETNAM

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. JACOBS. Mr. Speaker, the following is the language of House Resolution 319, which I introduced on March 17, 1971. I was hoping it might catch the attention of the administration:

H. RES. 319

Whereas the President of the United States on March 4, 1971, stated that his policy is that: "as long as there are American POW's in North Vietnam we will have to maintain a residual force in South Vietnam. That is the least we can negotiate for."

Whereas Madam Nguyen Thi Binh, chief delegate of the Provisional Revolutionary

Government of the Republic of South Vietnam stated on September 17, 1970, that the policy of her government is "In case the United States Government declares it will withdraw from South Vietnam all its troops and those of the other foreign countries in the United States camp, and the parties will engage at once in discussion on:

"—the question of ensuring safety for the total withdrawal from South Vietnam of United States troops and those of the other foreign countries in the United States camp. "—the question of releasing captured military men."

Resolved, That the United States shall forthwith propose at the Paris peace talks that in return for the return of all American prisoners held in Indochina, the United States shall withdraw all its Armed Forces from Vietnam within sixty days following the signing of the agreement: Provided, That the agreement shall contain guarantee by the Democratic Republic of Vietnam and the National Liberation Front of safe conduct out of Vietnam for all American prisoners and all American Armed Forces simultaneously.

JOHN WIRTZ—MORE THAN A COACH

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. JAMES V. STANTON. Mr. Speaker, Coach John Wirtz, now athletic director at St. Ignatius High School in Cleveland, was recently honored with a surprise presentation for his 30 years of service in high school athletics.

His record of championships and coaching feats are legend. Those who remember his 300 basketball victories, 150

football wins best also knew Coach Wirtz as a friend, brother, and disciplinarian. He also coached baseball, swimming and track with such success that he was voted Coach of the Year several times.

He never asked his men to do anything he could not do himself, according to friends. He taught by example. He exemplified the best qualities of those dedicated men who coach as a career.

A recent article in The Plain Dealer described some highlights of Coach Wirtz's career as follows:

MORE THAN A COACH
(By Dick Zunt)

Last night, the Knights of Columbus, West Park Council, made a surprise presentation to John Wirtz, athletic director at St. Ignatius High, honoring him for his many years of service to athletics.

It came just after Wirtz had introduced one of his stars of last fall, Ken Yantek, picked the athlete of the year by the K of C.

Wirtz previously guided Wildcat teams to great heights. He began in 1948, as an assistant to Fred George, and took over as head football and basketball coach in 1951, after George moved on to John Carroll University.

His coaching career spanned 30 years, beginning in 1940 at old Columbus St. Mary High.

Wirtz' number of championships and coaching feats are legend. He coached more than 300 basketball victories. He had half that many football victories.

In his first two varsity cage seasons, he took St. Ignatius to the state tourney finals.

He had great teams. He had great players. More than once he was voted Coach of the Year honors. He coached most sports, including baseball, track and swimming.

But, through all this he was more than a coach. He was a friend, father, brother, disciplinarian, and more.

He showed by example. He exemplified the best qualities of those dedicated men who coach as a career. His days of coaching at St. Ignatius never may be equalled.

Parents often have remarked that they were proud that their sons were coached by this outstanding gentleman.

No doubt his memories of his coaching days are many. Last fall, the St. Ignatius football team of 20 years ago, at a rally, surprised him with a token of what they thought of their former coach.

Wirtz is such a man. A rare man. Those schools which have a "John Wirtz" are the lucky ones. What he gave to his former players cannot be measured on earth.

They know that they were fortunate to have been coached by such a man. They come back to see him. They come back to see his teams. They may be busy judges or doctors, but they come back.

When Wirtz was introduced last night by Press scholastic sports editor Don Friedman, his mind probably flashed back to the many arenas and fields onto which he led teams.

He probably thought back to his college days at the University of Dayton where he was a football tackle and a baseball pitcher, and to his days of coaching championships in five sports in one school year at St. Mary.

His mind may have recalled what scholastic sports historians regard as one of the greatest coached (and played) games in local annals, even though his team lost. Although it never trailed until the final three seconds, Wirtz' smaller Wildcats lost to a taller East Tech team, 51-50, in the 1962 city championship basketball game.

Wirtz is a lieutenant colonel in the U.S. Air Force Reserves. He met his wife, Joan, in England during World War II. Mrs. Wirtz and three daughters, Barbara, Carol and Joan are proud of their dad.

The men he has influenced in his three decades of coaching are legion.

It doesn't seem that long ago that coach Wirtz observed that one of his business law students should pursue the field of sports. And it doesn't seem that long ago that we were coached by him. And that we were given confidence in athletic endeavors—and the chance to win a coveted varsity letter!

It was an honor last night to serve as master of ceremonies. It was an honor to have had called him "Coach." It always will be.

TEENS FIGHT POLLUTION WAR

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. MIZELL. Mr. Speaker, I am very proud at this time to announce that a group of concerned teenagers in Forsyth County, N.C., a part of the Fifth Congressional District which I represent, are joining in the fight against pollution in an active, effective way.

At a time when much of the Nation's attention is focused on the bands of dissidents who speak of change with only hollow words, it is good for us to recognize young people engaged in an organized, constructive campaign to effect real change in this vital area of our national life.

The story of these young people, who have dedicated themselves to excellence in environment, is well told in a story published in the Winston-Salem Twin City Sentinel of May 7, 1971.

At this time, I include in the RECORD the text of that article, that it may serve as a reminder to my colleagues of the peaceful, constructive efforts being undertaken by the vast majority of young people all over the country.

The article follows:

TEENS FIGHT POLLUTION WAR

(By Vicki Elliott)

Forsyth teen-agers, like thousands of other young people across the United States, have taken up the fight against pollution through ecology groups.

Teens here are involved through at least four groups: Youth for a Cleaner Environment, Youth Ecology Action, the North Science Club and the Environmental Action Committee of the Forsyth County Youth Council.

MANY PROJECTS

They are engaged in a wide range of activities. They stage litter clean-up projects at schools and in the community. They have conducted paper drives, planted trees and shrubs, and conducted an antipollution program on WSJE-TV. Some are riding bicycles to school instead of driving cars to draw attention to the need to fight air pollution. They have also sold ecology buttons to publicize their campaign.

"We're trying to do something," said David Klingler, a junior at Mount Tabor High School and chairman of Youth for a Cleaner Environment (YCE).

Teens say the main stimulus for the creation of that organization was the First Environmental Teach-In held here April 22, 1970. Since then, membership in the organization has grown to approximately 40 members from Reynolds, Bishop McGuinness and Mount Tabor senior high schools, as well

as Jefferson Junior High School, Forsyth County Day School and Southwest Junior High School.

The YCE is represented in the Environment Coordinating Council of Forsyth County, a countywide organization to bring together environmental groups of all ages. The group meets each Tuesday at 7:30 p.m. at Hanestown Recreation Center, and all interested teens are invited to take part.

"IT'S A VICTORY"

"I think it's a victory when there's a good number of people who realize the problem," said David. "The big thing is getting them actively involved."

In the past, YCE has staged litter drives, given citations on behalf of the Air Pollution Control Board, and investigated the recycling of paper, glass and scrap metal. The group's main project concerns the area of Silas Creek Parkway and Sherwood Forest where the city has begun dredging operations. To prevent erosion, local interested groups are planning to plant trees and vegetation.

"Our groups has maybe not been as active as we could've been," said David. "However, just staying together has been another victory."

David feels his group has been "pretty successful" in curbing public apathy. "Awareness is there," he said, "but when you join awareness with personal response, its not too good." According to David, too few people are willing to "sacrifice a few personal things" such as cars for their environment.

"It took people so long to see the problem," said Eileen Hammond, a senior at Bishop McGuinness and secretary-treasurer of YCE. Eileen has been involved in YCE since July. "If people had become involved a long time ago, then there wouldn't be a problem now."

Eileen thinks youth have a difficult time in the ecological movement:

"Because you're young, they (adults) are not as willing to help as if you were older and had a lot of prestige."

"POLLUTION CENTER"

Winston-Salem is a "pollution center," according to Cheryl Moody a senior at Mount Tabor. "I am concerned about pollution," she said. "I was interested in doing what little I could do to help."

YCE may be short-lived, however. Hanestown Recreation Center is being closed May 15.

"We will be looking for a new site possibly with the recreation department for the summer or beginning next September," said David. If a new place is not found, the group will suspend its meetings after one on May 11.

PARKLAND GROUP

Youth Ecology Action (YEA) is an organization at Parkland High School which is also affiliated with the Environmental Coordinating Committee. The club has been organized about six months and membership is open to anyone. At the present, eight members comprise YEA.

The organization has a goal, members say, to strive for a better environment, a cleaner school and campus, to make the general public aware of the problems of pollution, population, and an expanding technology without adequate controls for safeguarding the environment. Meetings are held every Thursday afternoon at the school.

President Tim Holleman believes ecological groups are necessary on the campuses "to get the idea of ecology and preservation of the environment across to present students who will be the future adults of the world."

Projects of YEA have included writing letters to North Carolina senators about pollutant dangers related to the supersonic transport plane and Bald Head Island, paper drives, and school cleanups. More paper drives are planned and, at the present, members are planting trees, supplied by the Garden Council of Winston-Salem, on the Park-

land grounds. Another Earth Day may be marked sometime in May.

"Generally speaking, I do not feel today's youth are apathetic toward pollution," said Parkland sophomore David Tamer, a YEA member. "However, some tend to fail to grasp the seriousness of the pollution problem."

PROGRESS QUESTIONED

"We are going to have to realize that a growing GNP (Gross National Product) is not necessarily progress," he concluded.

Thirteen members make up the North Forsyth High School Science Club which is involved with ecology. A past project was a three-day symposium held last October entitled "Ecology Now." Members hold a school cleanup every Saturday and collect pop bottles for the refund to help raise money for a trip to Washington, D.C., this spring to visit the Science Wing of the Smithsonian Institute.

"I think ecology is everyone's problem," said Susan Flynt, a member of the club. "I think we have the potential to destroy ourselves. If we don't watch out, we just may."

The Forsyth Youth Council recently put the spotlight on pollution problems here on the council's weekly show, "Youth Spectrum," on WSJS-TV. The council has an ecology committee headed by Bill Mischler of West Forsyth High School. The ecology committee recently was instrumental in bringing attention to Earth Week by having schools here to fly ecology flags.

The council's ecology committee also is studying the possibility of staging a joint ecology march with High Point teen-agers, between Winston-Salem and High Point. The committee also is considering proposals for distribution of Ringelman charts, simple devices by which anyone can measure and report air pollution. It has also been proposed that the committee sponsor an "Earth Man," appropriately dressed, to visit elementary school classes to distribute ecology literature, aimed at parents.

STATE COORDINATOR

One of the members of Bill's committee, Mike Renfro, also of West, is head of the ecological activities coordinating committee of Youth Councils of N.C., Inc. Mike is gathering information from each of the youth councils across the state on ecological projects in each community. When this information is compiled, he will distribute copies to all youth councils as sources for ideas for projects.

STATE MEETING

Mike and Bill were members of a Forsyth delegation which recently attended a meeting of the Environmental Action Committee of Youth Councils of N.C. at Raleigh. Additionally, representatives from High Point, King, Wilmington, Monroe, Fayetteville, Asheville and Wilson youth councils took part. Some 15 attended from Winston-Salem. Lt. Gov. Pat Taylor met with them and congratulated them on the role of N.C. youth in ecology.

Among youth control projects reported at the state meeting were a cleanup drive and ecology march to March to Raleigh and sales of 4,000 ecology buttons and distribution of 15,000 ecology stickers by Fayetteville teens, a campaign by High Point teens in behalf of a proposed state law to crack down on detergents, and Winston-Salem's television show on antipollution.

THE UNREPORTED WAR

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. SCHMITZ. Mr. Speaker, despite the fact that most newspapers and the

media described the recent demonstration in Washington on April 24 as peaceful and orderly, this was far from uniformly true.

Of course, one can always be glad that a crowd of that size did not completely overthrow the Government, but this is no justification for attempting to minimize the damage and disruption which actually did take place.

It went virtually unreported, for example, that at 5:30 p.m. on the day of the first demonstration 34 U.S. park policemen and several park rangers were forced to take refuge inside the Washington Monument—and to stay there until 4 o'clock in the morning—for protection against an angry mob of demonstrators outside. The mob was angry because the park police had been trying to protect the American flags around the monument from destruction by the peaceful protestors. As a matter of fact, 10 of the 50 flags were torn down and the remaining 40 were saved only because these men risked physical harm to safeguard them. The 10-hour stay behind locked doors in the memorial to the Father of our Country was necessitated because Washington, D.C., police were fearful of antagonizing the demonstrators or provoking a confrontation.

When there were no more flags or Park Police left upon which to vent their "peaceful" wrath, demonstrators found other avenues. They began by burning a \$17,000 restroom provided on the grounds by tax moneys. Subsequently, they broke into the basement of the monument and smashed electric light and heating meters. The next target was the spotlights which illuminate the obelisk—most of them were destroyed. The extensive defacing and vandalizing also included the breaking up of most of the ground's park benches for the protestor's campfires. Trees planted to beautify the site met the same fate. Since a Department of the Interior truck can hardly be used as firewood, no one has been able to figure out just why it was vandalized, but one thing is sure; garbage and trash collection crews have been working overtime ever since to haul away the debris left by the tons on the streets and parks of our Nation's Capital. The damage, in and around the monument alone, came to at least \$75,000.

One of my staff members made it a point to personally observe the proceedings and report to me. The wood and wire barricades which were erected to protect the flowers, shrubs, and gardens on the Capitol Grounds were flattened within 15 minutes of the start of the demonstration. Obscene slogans were painted on statutes, monuments, and buildings both on and off the protestors' march route. The cost of cleaning up the various campsites, the medical care for the hundreds of drug overdose patients every day, and the often intentional traffic tieups has yet to be even approximated. And yet, this aspect of the demonstration went largely or totally unreported in the news media.

The American people must not continue to be put upon to pay for these exercises in irresponsibility. The demonstrator's cry of "all power to the people," when translated, comes out "all

cleanup bills to the people." Thus, I have introduced legislation requiring the posting of a substantial bond by any group organizing a demonstration in the Capital. All damage would be deducted from that sum.

Unfortunately, however, it is not feasible to introduce a bill to require objective reporting by the news media. Our Nation pays for these demonstrations in other than monetary ways, of course—in morale, in spirit, in aid to the enemy. We can make the demonstrators pay for the cleanup of their garbage, but the nonmonetary tab occasioned by biased reporting of the aims and actions of the protestors is likely to be much higher.

LEGISLATION TO AMEND THE REFUSE ACT FOR INDIVIDUAL CIVIL ACTS AGAINST WATER POLLUTERS

HON. MICHAEL J. HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. HARRINGTON. Mr. Speaker, today I am introducing legislation to amend what is commonly known as the 1899 Refuse Act, specifically to give the statutory right to persons to sue water polluters acting in violation of this act. My distinguished colleague, the gentleman from New York (Mr. KOCH), is joining with me in this effort.

Over the last year the American people have had their ecological conscience awakened and sharpened. They have been treated to many hours of debate and discussion among themselves and by their elected officials telling them what is wrong with pollution, that their environment is being destroyed, their natural resources plundered, and that this destructive process must be stopped. Unfortunately, these efforts have not progressed much beyond the point of rhetoric. The action needed to back up those words has really not been taken. The legislation which I am introducing today is an attempt to fill that void of action, for if it is approved by this body, I feel it will give the American people a much stronger tool to fight water pollution in this country.

In April of 1970 I filed with the U.S. attorney in Boston an affidavit citing 151 Massachusetts companies alleged in violation of the Refuse Act. I requested that the U.S. attorney, the U.S. Army Corps of Engineers, and the other appropriate Federal agencies give immediate attention to this affidavit in an effort to determine what pollution was occurring as a result of discharges by these companies and if necessary to initiate proceedings to abate that pollution. That request has met with very little success. Now over a year later there has been no official action taken against any of the companies. In fairness, I must point out that a special grand jury was convened in January of this year to investigate the problems of water pollution in the Commonwealth of Massachusetts—in part the result of my affidavit. The gentleman from New York (Mr. KOCH), also filed an af-

fidavit under the Refuse Act in the past year and he has not met with any more success in New York than I have in Massachusetts.

My distinguished colleague the gentleman from Wisconsin (Mr. REUSS), utilized the Refuse Act several months earlier than I did in Wisconsin. Mr. REUSS' affidavit likewise was not acted on. But he went one step further and he attempted to have action taken against polluters by filing a qui tam action. The qui tam action by Mr. REUSS was not successful in the U.S. district court in Wisconsin, and that lack of success there as well as other similar cases throughout the country are in great part the motivation for filing this legislation today.

Let me take a moment to explain the nature of the qui tam action, and the necessity for legislation to be both introduced and rapidly approved.

Qui tam is an old legal principle which has long been used in both England and the United States. It allows an individual to sue on his own behalf and on behalf of the Government against a violator of the act. The type of law to which a qui tam action may be applied is one in which a person informing the Government of a violation of the act may be entitled to receive some portion of any pecuniary penalty imposed as a result of a violation of the act. The qui tam action had been upheld in several cases in the United States. However, in several instances recent attempts to utilize the qui tam principle have failed. The primary objections of the district courts have been that an individual may not become involved with an action under the Refuse Act, since the language of the act, as interpreted by district court judges, limits actions under the Refuse Act only to the criminal provisions. Under this interpretation, individuals cannot maintain qui tam suits against alleged violators of the 1899 Refuse Act except under civil proceedings.

The following is a summary of five cases recently decided upon by U.S. district courts which ruled unfavorably on qui tam suits.

A qui tam suit was disallowed in the case of Durning against I.T.T. Rayonier, Inc., in the U.S. district court in Washington State. In that case the judge ruled that the Refuse Act was intended to reward an informer for information leading to a conviction in a criminal prosecution, but that it does not allow him to sue the violator for the part of the penalty he might receive if the violator were convicted and fined in a criminal proceeding.

Bass Anglers Sportsman Society against United States Steel Corp., Bass Anglers Sportsman Society against Avondale Mills, and Bass Anglers Sportsman Society against Stauffer Chemical Co., were all ruled on in the district court in Alabama on February 8, 1971. In these cases too, qui tam suits were disallowed. The ruling in these cases was that the Refuse Act creates criminal liability only and that the act does not authorize civil actions by informers against dischargers for part of the fine or to obtain injunctions.

Bass Anglers Sportsman Society

against U.S. Plywood-Champion Paper was ruled on in the district court in Texas on February 10, 1971. The ruling in this case said that the Refuse Act authorizes payment to the informer only after conviction of the violator in the criminal proceeding and, therefore, impliedly precludes an informers qui tam suit.

Reuss against Moss-American, Inc., was ruled upon in Wisconsin on February 23, 1971. In that case the ruling was that the Refuse Act can be enforced only by Government prosecution, and further that it contains no implication of a right to maintain a qui tam action.

Reuss against E. I. du Pont de Nemours was ruled on in Wisconsin on March 18, 1971. In this case the judge cited the foregoing opinions, agreed with them, and dismissed the suit.

I would point out at this time that none of the aforementioned rulings affect the citizens entitlement to up to one-half of the fine for information he gives which leads to imposition of a pecuniary penalty for violation of the Refuse Act. Also, in at least two of the cases I have described, the decisions have been appealed.

It is reasonable to conclude after a study of the decisions of the district court judges just cited that objection was not raised to the principle of the qui tam action. Rather, the particular language of the 1899 Refuse Act has been interpreted so that only criminal suits brought by the Government—not individual civil suits—are allowable.

Individual action and individual commitment are essential to the effort to stop water pollution. It is for this reason that I am today introducing legislation to amend the Refuse Act to make clear that qui tam suits may be used by citizens against those who pollute our waterways. Passage of this amendment would greatly strengthen the Refuse Act by changing the statutory language and clarifying the language on which the district court judges have relied in disallowing individual citizen suits.

Let me address myself to two other important provisions of this legislation.

The first would increase the monetary penalties for violation of the Refuse Act. The range of pecuniary penalties as the law is presently written is from a \$500 minimum to \$2,500 maximum; my proposal would raise this to a minimum of \$10,000 and a maximum of \$25,000. These increases are urgently needed to strengthen the Refuse Act and should be approved.

As presently written the Refuse Act provides that up to one-half of any fine collected may be awarded—at the discretion of the court—to the person who gives information about the polluter to the Department of Justice. My legislation would make this provision more explicit and would also direct the other half of any sum collected go to a fund in the Treasury for use by the Environmental Protection Agency in its efforts to control and abate the water pollution.

Let me briefly summarize the provisions of my legislation. It would amend section 16 of the act of March 3, 1899—30 Stat. 1121, 1153, Ch. 425; 33 U.S. Code 411 and 412. The amended Refuse Act

puts into separate sections the following provisions: pecuniary penalties under civil action; imprisonment under criminal actions if the violation is by a natural person; pecuniary penalty and imprisonment under criminal action.

In cases where the U.S. attorney does not act on a complaint within 60 days after receiving information about a violation, the person giving the U.S. attorney that information would have the right to receive one-half of any pecuniary penalty imposed upon a violator of the Refuse Act after successful completion of a civil action. The pecuniary penalty and imprisonment provision under the legislation would be a pecuniary penalty of not less than \$10,000 and not more than \$25,000 for each violation of the Refuse Act. Each day in which any violation occurs would be considered a separate violation. Imprisonment would be for not less than 30 days and not more than 1 year. The Environmental Protection Agency could possibly receive one-half of any pecuniary penalties collected or imposed as a result of a civil action by an individual under the Refuse Act.

The 1899 Refuse Act is one of the most effective instruments presently available to citizens of this country who would take individual action against those who pollute their waterways. I am hopeful that the important changes which I am proposing today would be rapidly approved by the Congress. Such approval would be a demonstration of the Congress responsiveness to the American people's desire to preserve their natural resources, and will give the American people an even more effective tool in fighting water pollution.

The full text of the legislation follows:

H.R. 8355

A bill to amend section 16 of the Act of March 3, 1899 (30 Stat. 1121, 1153, ch. 425; 33 U.S. Code 411 and 412)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 16 of the Act entitled "An Act Making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," approved March 3, 1899 (30 Stat. 1121, 1153, ch. 425; 33 U.S.C. 411 and 412), is amended to read as follows:

"SEC. 16. (a) Every person and every corporation that shall violate, or that shall knowingly aid, abet, authorize, or instigate a violation of the provisions of sections 13, 14 or 15 of this Act shall be subject to (1) a pecuniary penalty of not less than \$10,000 and not more than \$25,000 for each such violation, and each day in which such violation occurs shall be a separate violation; or (ii) imprisonment, if the violation is by a natural person, for not less than 30 days and not more than one year; or (iii) both such pecuniary penalty and imprisonment.

(b) Any person who furnishes information leading to the imposition of a pecuniary penalty under clause (1) above shall be entitled to and receive one-half of the pecuniary penalty imposed on the violator.

(c) If the United States Attorney does not, within 60 days after receiving from any person information concerning the violation, institute and maintain a civil or criminal action against such violator, the person furnishing such information may institute a civil action for such pecuniary penalty against any person subject to said penalty. Of the sum recovered in such action, one-

half thereof shall be paid to the plaintiff, and the other half thereof shall be paid the United States and credited to a fund in the treasury which shall be available for expenditure by the Environmental Protection Agency to control and abate the pollution of the navigable waters of the United States.

(d) Every master, pilot, and engineer, or person or persons acting in such capacity, respectively, on board of any boat or vessel who shall knowingly engage in towing any scow, boat, or vessel loaded with any material specified in section 13 of this Act to any point or place of deposit or discharge in any harbor or navigable water, elsewhere than within the limits defined and permitted by the Secretary of the Army, or who shall willfully injure or destroy any work of the United States contemplated in section 14 of this Act, or who shall willfully obstruct the channel of any waterway in the manner contemplated in section 15 of this Act, shall be deemed to have violated said section and shall be subject to the provisions of paragraphs (a), (b) and (c) of this section, and shall also have his license revoked or suspended for a term to be fixed by the judge before whom tried. Any boat, vessel, scow, raft, or other craft used or employed in violating any of the provisions of sections 13, 14, or 15 of this Act shall be liable for the pecuniary penalties specified in this section, and in addition thereto for the amount of the damages done by said boat, vessel, scow, raft, or other craft, which latter sum shall be placed to the credit of the appropriation for the improvement of the harbor or waterway in which the damage occurred, and said boat, vessel, scow, raft, or other craft may be proceeded against summarily by way of libel in any district court of the United States having jurisdiction thereof."

A SALUTE TO JEWISH WAR VETERANS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. SCHEUER. Mr. Speaker, May 10 marked the beginning of Jewish War Veterans Week in the State of New York. JWV is an organization widespread across America and well-noted for its many patriotic and charitable activities on behalf of all veterans. I have been privileged to associate on an individual basis with several of its finest members in my district at their Pelham Parkway Post.

Combining the best of their religious heritage and a strong love of country, JWV has seen fit to take an active role in the affairs of the community. Substantial contributions have been made to the New York City Phoenix House for the purpose of combating drug addiction among returning veterans. Large sums of money have been raised and presented to veterans hospitals. And all veterans have been strongly encouraged, through the JWV, to take full advantage of the educational opportunities open to them through the GI bill. It has consistently made known to the State legislature and to the Congress its views concerning many vital issues. It is this kind of civic responsibility that distinguishes the truly special organization in our Nation.

New York State's Jewish War Veterans has provided a structure and cohesion

for large numbers of dedicated men to pursue those beliefs and interests with the best interests of America at heart. It is an effective, public-spirited organization which brings together socially productive activities and a fraternal spirit which makes it a strong unity. I hope each of my colleagues will join me during this week in saluting the Jewish War Veterans of New York.

MODERN DAY PROTESTERS

HON. JOHN ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. ROUSSELOT. Mr. Speaker, the Federal Government, and especially the Congress of the United States, was given a lot of advice last week by a group of young Americans who called themselves "Modern Day Protesters." Although the advice we received was sometimes not backed up with pertinent and germane facts, we in Congress still received it in loud volume. It occurred to me that some of my colleagues might be interested in some very simple advice included in an article written by Dick Tracy in his weekly column "My Corner," which appeared in the San Gabriel Valley Tribune on Sunday, May 2. Mr. Tracy quotes an author who seems to represent the average citizen who has been able to rise above the normal cry of "right on" to the kind of commonsense advice we used to receive from our parents. Now I understand that this type parental advice is considered outdated, but it is still worth our review:

"I AM A SICK AMERICAN," BUT THE SICKNESS IS ANGER

(By Dick Tracy)

"There are those who claim ours is a 'sick' society; that our country is sick; that we are sick. Well, maybe they're right. I submit that I'm sick . . . and maybe you are, too.

"I am sick of having policemen ridiculed and called 'pigs' while cop killers are hailed as some kind of folk hero. I am sick of being told that religion is the opiate of the people, but marijuana should be legalized.

"I am sick of commentators and columnists canonizing anarchists, revolutionaries and criminal rapists but condemning law enforcement when such criminals are brought to justice.

"I am sick of being told that pornography is the right of a free press, but freedom of the press does not include being able to read the Bible on school grounds.

"I am sick of paying more and more taxes to build schools while I see some faculty members encouraging students either to tear them down or burn them.

"I am sick of Supreme Court decisions which turn criminals loose on society—while other decisions try to take away my means of protecting my home and family.

"I am sick of pot-smoking entertainers deluging me with their condemnations of my moral standards on late-night television.

"I am sick of being told that policemen are mad dogs who should not have guns—but that criminals who use guns to rob, maim and murder should be understood and helped back to society.

"I am sick of being told it is wrong to use napalm to end a war overseas—but if

it's a molotov cocktail or a bomb at home, I must understand the provocation.

"I am sick of not being able to take my family to a movie unless I want to have them exposed to nudity, homosexuality and the glorification of narcotics.

"I am sick of riots, marches, protests, demonstrations, confrontations and the other mob temper tantrums of people intellectually incapable of working within the system.

"I am sick of hearing the same phrases, the same slick slogans, the cries of people who must chant the same thing like zombies because they haven't the capacity for verbalizing thought.

"I am sick of those who say I owe them this or that because of the sins of my forefathers—when I have looked down both ends of a gun barrel to defend their rights, their liberties and their families.

"I am sick of cynical attitudes toward patriotism. I am sick of politicians with no backbone.

"I am sick of permissiveness.

"I am sick of the dirty, the foul-mouthed the unwashed.

"I am sick of the decline of personal honesty, personal integrity and human sincerity.

"Most of all, though, I am sick of being told I'm sick. I'm sick of being told my country is sick—when we have the greatest nation that man has ever brought forth on the face of the earth. Fully 50 per cent of the people on earth would willingly trade places with the most deprived, the most underprivileged among us.

"Yes, I may be sick, but if I am only sick, I can get well. I can also help my society get well—and help my country as well.

"Take note all of you . . . you will not find me throwing a rock or a bomb; you will not find me under a placard; you will not see me take to the streets; you will not find me ranting to wild-eyed mobs.

"But you will find me at work, paying taxes, serving in the community where I live. You will also find me expressing my anger and indignation to elected officials.

"You will find me speaking out in support of those officials, institutions and personalities who contribute to the elevation of society and not its destruction. You will find me contributing my time, money and personal influence to helping churches, hospitals, charities and other establishments which have shown the true spirit of this country's determination to ease pain, suffering, eliminate hunger and generate brotherhood.

"But, most of all, you'll find me at the polling place. There—if you listen—you can hear the thunder of the common man. There, all of us can cast our vote—for an America where people can walk the streets without fear."

The author of the foregoing is Anonymous, unknown.

He—or she—speaks eloquently, I think, for the great body of Americans.

The words need no introduction, no conclusion.

All that's in order is a collective "Amen!"

"OCEANOGRAPHY, FOR THE NAVY AND THE NATION"

HON. GEORGE E. SHIPLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. SHIPLEY. Mr. Speaker, Rear Adm. W. W. Behrens, Jr., the Oceanographer of the Navy, in a recent address to the American Oceanic Organization, provided some interesting facts on the

field of oceanography which I would like to share with my colleagues and the American people. Admiral Behrens' speech follows:

"OCEANOGRAPHY, FOR THE NAVY AND THE NATION"

(Address by Rear Adm. W. W. Behrens, Jr., the Oceanographer of the Navy, before the American Oceanic Organization, Washington, D.C., April 27, 1971.)

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 short comings 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 heritage 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 on-going 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 reimbursable 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 de-

mands 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 forgo 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 geoceliver 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 dollar 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 col-

lection of bathymetric and gravity data, . . . 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 shakedown 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 1 July. 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 VER-NADSKI. 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.

MILLER PAYS TRIBUTE TO NATION'S POLICEMEN

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. MILLER of Ohio. Mr. Speaker, by Presidential Proclamation, the week of May 9-15 has been designated as National Police Week. On this occasion it is most fitting to pay tribute to the many law enforcement agencies—both large and small—across this Nation who are charged with the responsibility of pro-

protecting the rights of our citizens and the principles of American justice without which democracy could not survive. All too often, our policemen are criticized unjustly. They are rarely recognized for the services they perform. As we witness the increase in domestic ills—such as drug abuse, violent crime, and civil disobedience—the role of the policeman in our society becomes all the more important. Rural America is not isolated from the domestic problems which plague the large urban areas. All law enforcement agencies share common responsibility regardless of their locale and that is to protect the public domain. They have fulfilled that responsibility in an exemplary manner. During this National Police Week and throughout the year I know that all law-abiding citizens join with me in saluting our law enforcement agencies and in pledging our continued support of them in the same loyal manner as they have served us.

MODEL CITIES—NEW CONCEPT IN EDUCATION

HON. F. BRADFORD MORSE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 11, 1971

Mr. MORSE. Mr. Speaker, there is currently underway in Lowell, Mass., a most unique program in education, operated under the auspices of the model cities program and with the leadership of its education director, Patrick J. Mogan.

The individual skills education program, as it is called, seeks in new and highly creative ways to enhance the learning process and to make the learning experience a more successful and certainly a more enjoyable one, for both the disadvantaged child as well as the exceptionally skilled one, and for teacher as well as pupil.

It calls on the abilities of a corps of highly trained professional specialists, and with financial assistance from Community Teamwork, Inc., is able to combine learning with teaching for some 15 interns.

The program is being successfully employed as a supplement to standard teaching practices in several schools and will be expanded in the future. Indeed, I look forward to more of the same results that have been described in the following article from the Lowell Sun. It makes for heartening reading, and I am pleased to include it at this point, for the attention of my colleagues:

[From the Lowell (Mass.) Sun., Apr. 15, 1971]

MODEL CITIES—NEW CONCEPT IN EDUCATION (By Lee Wood)

LOWELL.—The scene is one of utter concentration. As one enters in Bartlett School, three young boys and a young man are huddled on the floor, in the hallway, near a window. On the floor is a map of Lowell. On top of the map is a transistor radio, laying on its back.

What is happening?

Simple. The boys are learning the direction of the radio stations on the map. This leads to explanations by the young man of

the directions streets are laid out and eventually into mapping. The approach is to take what the boys are interested in and go on from there.

And it works. Ten minutes later Wayne Colby has the avid attention of the three boys as he explains the layout of the City of Lowell. Saturday, he and the boys will take a hike, make a tape of the sounds heard in the woods during the hike and take slide pictures. Later they will narrate a slide show and talk of what they saw and heard.

Wayne Colby is an intern. But not in a medical hospital. He's one of 15 interns, all studying to be teachers, that are led by three professional specialists and two staff administrators in a highly effective Individual Skills Education Program through the auspices of the Model Cities Program.

At the Bartlett, just one of seven schools to eventually enter in the program, 44 students were deeply engrossed in writing plays, putting out a newspaper, designing a town, learning word combinations and making colleges among other subjects. Step by step they were allowed to make decisions and work toward a reachable goal . . . all based on their even interests. Students are free to roam around and look at the other projects. But most were so interested in what they were doing that they had to all but be pried loose to talk about it. The groups are gathered in bunches of one to three children per intern.

The results have been good. One boy refused to read in school. Now he can memorize entire short books and narrate the story back verbatim into a recorder days later. He's writing plays and so vgs.

A girl, who somehow couldn't get the shape of letters clear in her mind, has learned to recognize 35 words on sight in a couple of months.

Four children at the Green School are acting out plays on the spot, improvising their feelings, problems and imagination in such a way that one feels the play is real.

Each group of children is making a book as a history of his project and Polaroid pictures and illustrations are profuse throughout each book.

INTERNS AGED 18-27

The interns range in age from 18 to 27. Most come from the Acre and this is where the program is oriented. Each presently handles 12 children overall, in four programs of one hour each. The idea, mainly, is to use a series of steps in learning for skill development.

The programs are designed by professional teachers who circulate through the rooms while the interns help the students. The program offers assistance to all sorts of children from those with reading disadvantages to those of exceptional skill.

It is a service to the school . . . giving children individual attention for at least three hours per week, Monday, Wednesday and Friday and is meant as a supplement rather than a replacement for standard teaching practices. One result is to boost language arts. The interns learn just as much from the kids as vice-versa and it helps them to win credits toward their teaching certificates.

Mr. and Mrs. Leonard K. Eisenhood are developing a bi-lingual approach. Both are fluent in Portuguese, Spanish and French besides their native English, and both have been involved in the Migrant Education Program and have college degrees.

The three professional teachers all with Master's degrees, are: Sister Frances Gill with 35 years in the education field and coordinator for the Mor-Harris, with a background in just about everything, including exceptional students (both retarded and highly intelligent), the Bartlett and Green School coordinator and Lynn B. Packard, with teaching credits in Holland, this state and in newspaper work and communications.

PATRICK MOGAN DIRECTOR

Patrick J. Mogan, the director of education at Model Cities is well known in Lowell and was the assistant superintendent of schools in this city for four years. His assistant, Peter S. Stamas, is a Harvard University graduate, attended Massachusetts State College at Boston for his Masters in Education and is going for his doctoral degree at Boston University.

Mogan personally picks the interns whose greatest qualifications seem to be their patience, quiet competence, ability to adapt to the directions in which the children want to go and most of all to their way of relating to the kids as people-to-people rather than teacher-to-student. There is a built in evaluation program as each student is rated on an attitude scale.

Hey wait! What's that kid doing over there? He's destroying a tree. Nope. That boy is breaking branches off a small dead tree on the school stage. And he will take those pieces of stick and will build a log cabin. This will be included as part of a model village (in plaster of paris) to include other houses built with rocks and other materials. It allows the youngsters to learn how a basic material ends up as part of an overall finished product that is still a part of a larger product, the community.

LEARN TO RELATE

The boys and girls, in this program, get to relate to other youngsters and adults in a unique way. It's free expression on their part. Intern Ross Hanvey is helping Michael Laurent in the 6th grade, and 5th graders, Daryl Phillips, Dolores Sylvester and Debra Flerley. The program has shown a gradual growth in the children's work and their books.

Another example: An intern brings in a motorcycle helmet full of collages to show the children just one of the ways art can be done with collages and one end use of same.

But what are those sixth graders doing playing with blocks? Isn't that childish for their age? Not at all. Calvin Burdick and Robert Daigneault are doing free expression with blocks. They make individual buildings with these plastic parts, draw a picture of the building, then make another until they have a picture made of a small city. And when it's finished, it will be their city, that they made themselves. "This gives them a concept of the way a city is structured," said Bud Pevette, the intern. "They're able to see one-way streets and the reasons for them, for instance."

One girl is off by herself typing a story (typewriters are very common in the program), Steven Cochran, fifth grade, is designing a puppet stage for his group's puppet show.

COMPOSE PLAY

Meanwhile, Tina Cox and Paula Camille, both sixth graders, have composed a 17-character play about drugs. "This is to prove that drugs aren't any good," said Tina. The girls are leaving the play ending open so the audience will think about it. Intern Albert Kehoe is helping them. He said it will be a three act play and the girls have even made the characters sign "contracts" so the players, "have to show up."

Intern Mrs. Elmer Hall is assisting Barbara Burdick, Effy Stavroullas, Christine Minezzi and Cathy Kanellos in making a newspaper to be called, "The Legend." It will be an all-girl newspaper and articles will include items on the four seasons, the different projects at the Bartlett School, poems, the girls' play, plus reviews of other plays, and even a fashion section.

Sixth graders Charles Cooper and Phillip Tingas don't like the North Common area. So, they're redesigning it to be a recreation center. Intern Patricia Brogan said they even want to put a plastic dome over it for all-weather protection. The boys outdid themselves with the design to include: a baseball

field, outdoor theatre, basketball court, swimming pool, tennis court, parking lot and even benches and a picnic area. They'll make a plaster of paris model and paint it.

All these learning experiences are part of an educational idea dreamed up by James Moffett and he wrote a book about it called, "Student Centered Language Arts Curriculum." In essence, it says, take what children are doing, what they like to do and go from there. The Bartlett School, to go one step further, is planning to launch an open classroom by the end of the year.

CTI HAS PROGRAM

Community Teamwork Inc. already has a skills training program. CTI pays a percentage of the intern's salaries. This is not teaching per se, but "presenting a learning experience," similar to the way pioneer children in the start of this country learned things by watching or helping their parents. But, again, each program, designed by the professional staff, is built around the interests of the children . . . that's the important aspect. The interns see what the children need . . . then the professionals design a program to fit it. Afterwards, said Lynn Packard, the professionals, ". . . guide them (the interns) but we don't tell them."

Mrs. Packard is working with a girl who had trouble understanding logical sequence. She played checkers and chinese checkers with the girl to show her consequences and planning. And the end result, believe it or not, is language arts.

Language is nothing if not sequential. To communicate well, one must explain well and logically. All these programs thus relate in the end to a better ability in language, clear thinking and being able to picture things in the mind which is only, after all, imagination. Man thinks and then he makes or says. It's that simple.

At the Green School, it's much the same, but the learning experiences are presented next door at the Smith Baker Center. A girl, blindfolded, is rubbing her index finger over felt letters on a cardboard piece. Before she couldn't read letters. With this method, she can now recognize 35 words. All this in a mere five weeks. She's transforming a sensory touch into a visual image in her mind. Ronald Platt, her intern, is helping.

Intern Gerry Paquin has a genius on his hands, one Danny Gagnon in the fifth grade. Danny didn't like to read last summer. Now he memorizes books verbatim. It was checkers and chess for the first two weeks, then a story board (sounds and pattern kit) in which Danny decided what each character was doing and wrote a sentence about it. Now he takes the characters and makes up stories, poems and even songs, and types them out.

Under a "Little Miss Muffet" character, Danny wrote "a girl saw a bug." Another sentence shows "a boy being burnt by a fire dragon." Danny was writing a song about a king, a ghost and a pieman as he was visited by this reporter and was much too busy to bother explaining it all. His intern is frankly amazed at his scope of learning. It just took that personal interest to bring it out. "He uses me as a kind of dictionary," said Paquin. A picture story by Danny will be made into a five-act play and slide show.

In another room, a video projector shows stories but draws no conclusions in the narration. Children make up their own endings. At the Smith Baker Center there are a lot of materials and the children are free to pick what they want.

Gagnon's brother, Mark, is only in the second grade, but he has been designing a fancy soapbox derby racer and checks it out after each redesign in the aisles of the center's auditorium. His cart has steering wheels front and back. Note that the interns don't tell the kids how to do something, but offer suggestions as to result. Mark redesigns by seeing a problem, defining the problem, and

figuring a way to beat it. His intern, Mrs. Elmer Hall gives him lots of attention and praise and might help him define the problem after he's discovered it, but he decides how to solve it.

It's the freedom that's important.

Another boy, Joseph Sullivan in the fourth grade is making a lighthouse out of this same mechanical advantage kit.

And on stage, ladies and gentlemen, presenting those great American actors, Bruce Callicutt, Manny Athenais, Eileen Call and Albert Potter wowing their two intern helpers as they devise a play on the spot. Callicutt is the lunch thief, Athenais catches him, Call had her lunch stolen and Potter is "Frank", the one who saw the lunch thief break a window. One of the interns plays the principal and the action is hot and heavy. The kids really get fired up and for all intents and purposes the play is real. They make up their lines as they go along.

A teacher in the program noted, "Youngsters get very little air-time, time to express their feelings at home or in large classes. Here they do."

In the old days, children were supposed to be seen and not heard. At Model Cities Education, they're seen, heard, helped and appreciated.

VIETNAM: PAST AND PRESENT

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. GOLDWATER. Mr. Speaker, during the past decade there has been much rhetoric relative to the facts on the Vietnam war. Unfortunately, both the facts and Vietnamese people have been lost in the shuffle from the debate emanating from both sides. What America needs is less hawks and doves and more owls. We need to approach matters wisely, not from emotion ridden ideas.

For far too long we have attempted to view the situation through Western colored glasses. This is very naive and unwise. It is interesting to note that the average Army basic trainee receives no relevant information about the Vietnamese people: their culture, values, or tradition. This is like sending a man unarmed into a political revolution warfare situation. Understanding these aforementioned facts are as important as his rifle and his knowledge of how to use it.

Certainly this is shocking but it has been a prevalent Western attitude too long.

The following information was prepared from the best sources available on the Vietnam history and conflict. I wish to present this material in the hopes that this one candle will help to diminish some of the darkness surrounding the true situation in Vietnam.

The material follows:

VIETNAM PERSPECTIVE 1954-70

THE GENEVA ACCORDS—1954

The Geneva Conference held in 1954 to settle the Indochina War resulted in Accords signed by only two powers: France and North Vietnam. The Accords provided for a military cease-fire, a regroupment of military forces, the provisional division of Vietnam into two zones divided at the 17th parallel, and the free movement of the population between the two zones for a period of 300 days. The Accords also called for the creation of an International Control Commission (Canada,

Poland and India) to supervise the implementation of the provisions.

In declarations attached to the Accords (and unsigned by any powers), it was stipulated that free elections by secret ballot in accordance with democratic procedures should be held in July 1956. The United States and South Vietnam each had urged effective United Nations verification and supervision for these elections. North Vietnam, then and now, totally rejected any U.N. role in Vietnam. The U.S. and South Vietnam therefore refused to sign the 1954 Geneva Accords. No powers signed the final declarations attached to the Accords.

NGO DINH DIEM

In South Vietnam, the political focus rested on Ngo Dinh Diem. Diem was appointed Prime Minister of the State of Vietnam by Emperor Bao Dai in 1954 before the Geneva Accords were drawn up. He was supported by the United States as a result of his long record as a nationalist, non-Communist political leader. Diem was not an American puppet nor was he Cardinal Spellman's silly putty. He had only come to the attention of Americans in 1951 but Diem was the son of the grand chamberlain of the emperor at the Imperial Court in the city of Hue in Central Vietnam. Born into a family which had a long tradition of Catholicism (nearly two million Vietnamese in South Vietnam today are Catholic) Diem was educated at the same high school that Ho Chi Minh had attended in Hue city.

Diem became well-known throughout Central Vietnam as a dedicated, honest and competent nationalist. In 1930, following service as a District Chief, Diem's talents came to the attention of the French administration. The French subsequently offered Diem the position of Minister of Interior. Diem took the post on condition that the French grant genuine concessions toward increased Vietnamese independence. When it became clear that the French had no intentions of keeping their word, Diem resigned after 18 months of service warning the French that they would lose their hold on Vietnam as a result of denying Vietnamese a real role of participation.

In 1940, Diem refused with equal stubbornness to collaborate with the Japanese occupation forces in Vietnam. He remained an obdurate Central Vietnamese patriot. In 1945, Diem's brother was buried alive by Ho Chi Minh's forces in North Vietnam—a fact that Diem never forgot nor forgave. Ho later offered Diem a position in North Vietnam's short-lived "coalition" government. Diem refused the offer.

THE EMERGENCE OF THE COMMUNIST THREAT

In 1951, Diem was encountered by American scholars in Tokyo. He was searching for help for Vietnam, just as Ho Chi Minh had left Vietnam in 1912 never to return until 1941. Subsequently, Diem came to the United States. He felt the need for help was more urgent than ever due to the events that had taken place in Southeast Asia. A coalition government formed with nationalists, Communists and neutralists in Hanoi by Ho Chi Minh had been destroyed in six months during the summer and autumn of 1946 and Ho Chi Minh had abolished the Communist party which had only a few months before destroyed the nationalists in the coalition.

By 1951, with Mao Tse-tung in control of the Chinese mainland and involved in the Korean War, Ho Chi Minh had felt bold enough to abolish the broad national front and resurrect the Communist party in public position of leadership. Named the Lao Dong (Workers) Party, in March 1951 this antagonistic non-Vietnamese organism once again was in the saddle. (A theory of a German named Hegel and a vision of a German named Marx was going to be translated into a dictatorship of the proletariat on the unwilling backs of a people who were fighting for genuine Vietnamese independence and

the freedom in village self-government terms that has characterized the three regions of Vietnam for centuries.) The Lao Dong Party was in fact but another reincarnation of the first political brainchild of Ho Chi Minh fresh from his 1923-25 training in Moscow—the Indochinese Communist Party of 1930.

DIEM AND THE U.S.

Diem's quest for U.S. support was redoubled after the emergence of the Lao Dong Party from behind the mask of the broad national front against the French in March 1951. Diem was favorably regarded by Senator John F. Kennedy, Senator Mike Mansfield and a host of American political spokesmen who regarded him as a genuine Vietnamese nationalist.

In 1954, the United States decided to support Diem for the post of Prime Minister when he was being considered by Emperor Bao Dai for that job. One reported French reaction to Diem's selection was: "He is the last cigarette in the pack." It was a French estimate that Diem would last only a few weeks. Diem proved to be adept at survival, becoming Prime Minister in 1954 and in 1955 defeating Bao Dai in a national referendum for the position of President. Diem remained President of South Vietnam until November 1963.

REBUILDING IN THE SOUTH

As President of South Vietnam, Diem was able to restore telecommunications, rebuild roads, triple educational enrollment, increase health facilities in the countryside, re-settle nearly a million refugees, meet the challenges of armed political-religious sects threatening the government's authority, destroy the Binh Xuyen, (a Mafia-like organization which controlled the opium, gambling and prostitution in Vietnam which was one of the troublesome legacies from the days of French control) and register a very large increase in rice production. Diem had set South Vietnam on an impressive course of economic reconstruction. Professor Hans Morgenthau lauded Diem and his impressive efforts in 1956 as "a living miracle."

THE DEMISE OF VILLAGE ELECTIONS

On the other hand, confronted by the illegal presence of some 5,000 Communist troops in five hold-out areas in South Vietnam, Diem was deeply worried about security in the countryside. He reacted by repressing political opposition. In June 1956, Diem abolished village self-government in South Vietnam. The election of village councils had been a cherished Vietnamese tradition dating back to the 1600's. Diem's action though perhaps understandable in terms of military security opened a deep political vulnerability in the countryside which the Communist cadres skillfully exploited during the following three years. It should be noted that the many local grievance groups that existed in the countryside proved to be fertile targets for the Communist organizers who were determined to prepare the political battlefield in South Vietnam.

DIEM AND THE GENEVA ELECTION ISSUE

Diem had profound concern about any election contest with North Vietnam. He knew the record of North Vietnam's Stalinist regime ruled out the possibility that the North would hold democratic and free elections by secret ballot. The record of Ho Chi Minh's systematic betrayal of Vietnamese nationalists to the French during the previous decades was further cause for caution. Diem also knew that the North (even after the flight of nearly a million refugees to the South) simply outnumbered the South in terms of voting population. Ho Chi Minh had violated the Geneva Accords signed by North Vietnam on the stipulations concerning free choice of movement for the people of the North and the South. Communist roadblocks prevented most of the people of North Vietnam from ever reaching the International

Control Commission teams which were supposed to be available to all. Only those who could reach the ICC teams in the former French-held areas of the Red River Delta had much chance of stating their choice. Others forged papers and tried to slip past the Communist Party security squads which sought to prevent such contact.

U.S. OPINION ON THE 1956 ELECTION ISSUE

Diem was adamant in his reservations. It was certain that the Communist regime would regiment more votes at the ballot box than the South's voting age population could match. The ICC with its pro-Communist Polish representatives could not provide any assurances of a free electoral test. Without U.N. supervision, Diem felt any elections between North and South would be meaningless. American spokesmen such as Senator John F. Kennedy and Senator Mike Mansfield agreed. They continued to press for an election formula calling for effective international supervision and warned against "forcing Diem" into these rigged and unrepresentative elections.

THE POST-GENEVA RECORD

The fact that South Vietnam had never signed the Geneva Accords, added to the strength of Diem's refusal to submit to the Communist demands on this issue. By July 1956, France, one of the two signatories of the Accords, had departed South Vietnam and North Vietnam had consistently violated important provisions of the Geneva agreement by several significant policies. More than 5,000 regular army troops loyal to the Lao Dong Party, the Communist Party of North Vietnam, were left in the South in 1954-55. Their refusal to regroup to the North as the Geneva Accords had prescribed provided North Vietnam with a built-in military threat to South Vietnam's development and survival.

The size of North Vietnam's regular army at home was trebled in open defiance of specific stipulations in the Accords that no increase would take place. In South Vietnam meanwhile, 685 U.S. military advisors were assigned to training tasks in answer to a request by President Diem and in accordance with the Accords provisions permitting rotation of training personnel. At the same time, South Vietnam's regular army was reduced in size to keep within the Geneva stipulations even though neither South Vietnam nor the U.S. were signatories to the Accords.

INSIDE NORTH VIETNAM 1954-1956

Ho Chi Minh's regime in North Vietnam by 1956, was experiencing widespread unrest and resistance to the bloody "land readjustment" campaign which killed small farmers and landholders as a preparatory step to turn their lands into collective farms. There were a minimum of large landlords in North Vietnam which had traditionally been a country of small farms and land worked by the owners. Nevertheless, more than 50,000 people were executed by the Communist Party campaign in two years. By 1956 more than a half a million people were in forced labor camps or re-education centers and countless families had been destroyed by wives being forced to divorce their husbands who had been branded "reactionaries." In August 1956, intellectuals in Hanoi publicly demanded the overthrow of the Lao Dong Party publishing their demand in the newspaper "Nhan Van" (Humanity). The Lao Dong Party closed the protesting newspapers and periodicals, suppressed the university students and jailed the dissenters.

REBELLION IN NORTH VIETNAM—1956

In November 1956, despite regime apologies for the "tortures and murders" of the previous two years, the farmers of Ho Chi Minh's home province of Nghe An, rose against their Stalinist masters, seized guns from the Communist Party armory and

fought against the Lao Dong Party. Two divisions of North Vietnamese regular army troops were sent in to suppress this rebellion, but the troops could not erase the fact that the people of North Vietnam were emulating the revolts flaring in Poland and Hungary a half a world away against the same system of totalitarian Communist rule.

This was the atmosphere in 1956 when the North Vietnamese might otherwise have held the Geneva-prescribed elections. The precincts in North Vietnam were rotten. There were no model unification elections there either. Ho wept on national radio in North Vietnam and apologized for errors and mistakes of the land reform executions: "My children, Land Reform is like hot soup, it must be taken slowly." General Giap, hero of Dienbienphu and Defense Minister of North Vietnam apologized before a formal meeting of the Party Congress, stressing that the murders and tortures that had occurred during those two years were a result of over zealous actions.

HO CHI MINH

When Ho took power as a Communist leader in North Vietnam in 1954, he had already traveled a long and special road. He had been born in 1890 with the name: Nguyen That Thanh. (Nguyen Who Will Be Victorious). In his lifetime he would adopt and discard 21 aliases to mask his identity. His father was a functionaire and was alternately working for and being prosecuted by the French. In 1912 Ho left Vietnam under an alias as a cabin boy on a French ship and in time sailed from Marseilles, France on the maritime routes that took him to Africa, New York City and London. In the years of World War I he was in France where he was known as Nguyen O Phap (Nguyen Who Hates the French). In 1919 he rented a top hat and tails and attempted to present a petition for Vietnam's independence to the Big Four peace conference meeting at Versailles. They were too busy to see him.

ALIAS NGUYEN AI QUOC

In 1920, re-inforcing his years of contact with the Socialist movement in Europe, he attended the socialist Congress at Tours, France and when the meeting split into two factions, he followed the Communist faction into session and became a founding member of the French Communist Party. He adopted the name: Nguyen Ai Quoc (Nguyen the Patriot). His French Communist Party roots would show clearly years later when he, in 1946, negotiated the return of the French to Vietnam (the French Communist Party felt it had a good chance of conquering France by parliamentary action in 1946 and issued orders that year to the Vietnamese Communist Party that "under no circumstances should any attempt be made to prevent the return of French troops to Vietnam in 1946"). Ho Chi Minh bargained the French in to get the occupying Chinese Nationalist troops and influence out of North Vietnam. Southern Communists protested the entire arrangement charging Ho with being a nation seller and a betrayer. This was not a new allegation on Ho's record.

After the 1920 founding of the French Communist Party, Nguyen Ai Quoc was sent to Moscow to the Lenin Institute for training at the Toiler of the East School. There from 1923-1925 he refined his skills as a Communist organizer.

In 1925, he was assigned to Canton, China as a member of the Russian Consulate headed by Borodin. Nguyen Ai Quoc was listed as a clerk and an interpreter, but his real job was to organize Communist activities in Southeast Asia. One of Nguyen Ai Quoc's first acts upon arrival in Canton was to invite to Shanghai the leading Vietnamese fighter against the French, Phan Boi Chau. Chau had been leading the struggle against the French for more than 25 years inside Vietnam. Nguyen Ai Quoc's organization sold

Phan Boi Chau to the French security police in Shanghai, China in 1925. A trip to talk about revolution had ended in betrayal and nationalist struggle against the French was weakened by the actions of the Communist organizer, Nguyen Ai Quoc. Two hundred other nationalists of various parties were subsequently invited to China by Nguyen Ai Quoc to study revolution. After a year's study at Whampoa Military Academy many of them refused to join the Communist movement and they too were betrayed to the French Surete as they attempted to clandestinely return to Vietnam. Nationalists who had thus encountered Nguyen Ai Quoc's organization had the contemporary opinion that Nguyen Ai Quoc was betraying Vietnamese nationalism not fostering it. Nguyen Ai Quoc had to flee for safety to northeast Thailand when the coalition arrangement between the Chinese Nationalists and the Chinese Communists broke down in 1928.

THE "DEATH" OF NGUYEN AI QUOC

In 1930 Nguyen Ai Quoc held a Congress of the quarrelling factions of the Indochina Communist groups in Hong Kong. There he founded the Indochinese Communist Party thus surfacing his Communist allegiance so repugnant to Vietnamese nationalists. In 1933 Nguyen Ai Quoc was reported dead and his death was accepted as genuine by Communist and non-Communist Vietnamese alike. The Communist Vietnamese were grieved, but the nationalist Vietnamese were more restrained in their mourning since the betrayer of their colleagues had passed to his next reincarnation. Some were plainly relieved that the leading menace to the nationalist movements was gone. They buried their grudges with the memory of Nguyen Ai Quoc.

ALIAS HO CHI MINH

After the false report of his death, Nguyen Ai Quoc, under a variety of other aliases worked in Thailand, Malaya, and the Soviet Union. In 1941, eight years later, Nguyen Ai Quoc emerged from a Chinese Nationalist prison and under the alias of Ho Chi Minh—"Ho who is determined to be enlightenment"—was sent into Vietnam by the O.S.S. to organize an escape net for allied pilots in Japanese occupied North Vietnam. Ho was also sponsored by a Chinese nationalist warlord who wanted to wrap up North Vietnam for himself as a V-J day present. As Ho Chi Minh, new in name and appearance (tuberculosis had aged and emaciated him, prison had grayed his hair) encountered Vietnamese nationalists, he avoided any identification with Nguyen Ai Quoc's record, downgraded the Communist Party Nguyen Ai Quoc had created and asked people to join in a Front against the Japanese. Under this name and with this organizational mask, Ho Chi Minh became the war hero and liberation hero of most Vietnamese. (Not until 1960 in public print in Hanoi did Ho Chi Minh admit that he was Nguyen Ai Quoc.)

BEHIND THE MASK—THE COMMUNIST PARTY

Consistently throughout the years from 1941 through 1945, the Communist movement hid under the mask of a Front. In 1945 with the Japanese surrender the Communist movement emerged, entered a coalition government in 1946 which was nationalists, communist and neutralist in representation. In six months, the Communists had murdered, arrested or terrorized the nationalists into flight, and the iron control of the Party had been established. However, when the war with the French began a month later, Ho once again found it necessary to abolish publicly the Communist Party and create a broad popular front which nationalist non-Communists could be expected to join.

THE LEGACY OF NGUYEN AI QUOC—1954

After France lost at Dienbienphu in 1954 and the Geneva Accords were signed in France and North Vietnam, Ho had a difficult time explaining to the Southern Communist movement of his organization why, having lost the war in 1954, France was to be permitted two more years to hang on in South Vietnam. One reason was that the Soviet Union had insisted that Ho give France two more years in Indochina as an incentive for the French to vote against the European Defense community plan then being considered in the French Parliament. Thus it was for the International Communist priority of weakening the Western European defenses which denied the 250 Soviet army divisions, that Ho Chi Minh sold out the hopes of the Southern Communists.

BAD NEWS FOR THE SOUTHERN COMMUNISTS

Between 80,000 to 100,000 Southerners had been ordered to go North at the time of Geneva to train and prepare in the North for the return to South Vietnam to organize the Communist vote in the South in 1956. For these Southern Communists who were in North Vietnam, the North's land reform revolt and the Party's eroded political condition were bad news. The need was plain. The balance between Ho's problems and Diem's progress had to be corrected by a shift in tactics.

RETURN TO THE SOUTH TO ORGANIZE AND KILL

The Southern Communist re-groupees, trained in North Vietnam went back into the South to focus the local grievances in the villages of the countryside, to organize resistance to the central Government in South Vietnam, and to kill by assassination and terror those serving the government cause in the countryside. It was this pattern, using the 5,000 hold-out stay-behind Communist troops that Ho had ordered to remain in escrow in the South, that enabled these local Southern re-groupees to carry out their tasks. They killed the corrupt first, the efficient second and never touched the mediocre. A lot of Vietnamese started to get mediocre in the performance of their tasks simply to get to the next year. The killings started in 1957. The Communists never publicly mentioned Communism nor did they create a public Communist organization. They simply rode the tiger of local grievance, joining and supporting whatever the local organizations and memories would respond to and at the same time the network of clandestine Communist agents and membership spread carefully in a technique the Communists professionally called "bead-stringing." There was much local grievance to exploit. The scene was set for the next three years of Communist assassination, terror and organizing. Diem grew increasingly repressive in response to the deteriorating security situation.

CREATION OF THE NLF—ANOTHER "FRONT"

In December 1960 the National Liberation Front was formed since Diem was nearly overthrown by a coup the previous month and the Communists were still publicly operating entirely through the diversity and variety of local grievances. They had to have a national organization that the people could join if Diem was toppled. The National Liberation Front was a spin-off of Ho Chi Minh's long experience in masking his unpopular Communist Party's identity behind broad popular facades. But the People's Revolutionary Party (PRP) was also included inside the Front. This was in fact the Southern branch of the Lao Dong Party and its controlling role in the Front, which was largely a propaganda facade and apparatus, became painfully evident in 1962 when the PRP announced publicly that it was a "Marxist-Leninist Party, the vanguard of a Communist Revolution." This was sad tidings for the

Front and the believers in local grievance causes. Once again the Front, well along the road to what it assumed to be victory, was effectively abolished in favor of Party control of policy and apparatus.

THE CRUCIAL YEAR 1964—SHOULD THE NORTHERN ARMY GO IN?

In 1964 most of the effective Southern manpower pool of re-groupees that had been sent North for training in 1954 had been used up. There still had been no uprising of the masses in South Vietnam to the Communist banner, though Diem was increasingly unpopular as a result of his deteriorating administrative apparatus in the countryside and those who carried out programs in negative fashion using his name. For the North the real question was: "If Southern cadres trained in the North are now in short supply, could the regular Northern army be sent in to wrap up the war fast?" In 1964, the Lao Dong Party moved the NVN army into training camps preparing for such a shift in policy and in September and October 1964 the first regular units of the North Vietnamese Army began to move down the Ho Chi Minh trail through Laos and into South Vietnam. The numbers increased as the months went by. From an initial advance party of 300 in November and December 1964, the Northern involvement rose to several thousand by the spring of 1965 and eventually to the 10 divisions (160,000 men) in the South today. It was these troops, wearing uniforms and insignia, coming in regular unit formations, that constituted the beginning of an actual invasion of the South by the North. The pattern of the war had changed.

THE U.S. RESPONSE—MISCALCULATION BY THE NORTH

The U.S. was now to be tested. Did it mean what it had always said? Would the South Vietnamese be overrun? The North could well reflect in 1970 that they had made a major miscalculation in 1964. For the U.S. response with the combat forces arriving in March and June 1965 prevented the collapse of South Vietnam and remains today the major element blocking a North Vietnamese military victory on the battlefield. Moreover, in 1969 President Nixon's Vietnamization policy for the first time turned priority attention to the training and equipping of the South Vietnamese in a role of leadership which places the burden for the defense of the South on the shoulders of the Southerners. The on-going U.S. troop reduction is timetabled to enable the South to prepare to meet this challenge. Such a shift can only represent anathema to the North. For Southerners have never in 2,500 years of Vietnamese history been ruled by Northerners and a trained and equipped Southerner in his own back yard is the strongest psychological barrier to a North Vietnamese regular army intruder into the South. That is why the North has attempted to preserve the fiction for so long that it really has no troops in the South and at the same time has insisted that the U.S. must withdraw unilaterally and precipitately get out so that there will be a guaranteed Southern collapse of the non-Communist nationalists. That is the only way North Vietnam (with the mask of the NLF shredded and torn by the Tet offensive of 1968 which resulted in the execution by the Southern Communists of 5,700 people in the city of Hue in 26 days of occupation) can hope for a military success in South Vietnam. They had never thought the U.S. would in fact come to the aid of South Vietnam with troops when for seven years South Vietnam was being cut to pieces and the U.S. had sent only a few advisors. Now the North is equally worried about how to get the Americans out fast. President Nixon has indicated that one of the ways

that the war can be most speedily resolved is by meaningful negotiations at Paris or elsewhere. If the Hanoi leadership refuses to negotiate then the Vietnamization program will be a constant reminder that as they dally, the South Vietnamese who have a deep residual abiding rivalry with the North are being given more time and tools to get ready.

NEW POLITICAL GROWTH AT THE RICE ROOTS IN THE SOUTH—1967-1970

It is in this context that the series of elections from the village to the Presidency in South Vietnam should be viewed. Village self-government is back. The present Saigon leadership reincarnated this venerable Vietnamese tradition in 1967. It also fostered a budget and leadership role for the village councils that more appropriately equate with the 20th century needs for services and development. Village elections were held in 1,000 villages in 1967. Another 1,000 villages were able to conduct elections as a result of the inability of the Communist forces to keep government contact away from the villages following the 1968 Tet offensive which cost the Communist more than 230,000 dead and opened up, as a result, communications and access to nearly 1,000 more villages in the following six months. Thus 2,000 of the total 2,300 villages in South Vietnam today have ignored Viet Cong threats, have voted for their own local leadership and are busy trying to rebuild their own local society despite the decade of war. The national elections, which also have ignored the VC have resulted in a House and Senate, a Presidency and Vice Presidency being created and candidates elected. In the summer of 1970, 1,000 villages held re-elections for their councils. With five candidates trying for each seat available, the 44 province councils (they advise the 44 province chiefs or governors) were elected, and in August 1970 30 seats of the 60 seat South Vietnamese Senate were the subject of re-election. Sixteen, ten-man slates vied for the three ten-man slate positions contested, and the winning slate was the Buddhist, with Opposition Independents second and a pro-Thieu slate third. Even the losers said this was the most honest election in their experience.

THE BIG QUESTION FOR HANOI

In 1971, the whole country of South Vietnam votes again for the Presidency, the Vice Presidency, the Lower House of the National Assembly and the village councils in 1,000 villages. The big question for the Southern Communists is what role they will play in these elections. The U.S. and South Vietnam have offered them a chance to negotiate, to cease firing and come in and compete politically, joining in determining the arrangements for the rules and the supervision of the balloting. Hanoi and the VC have rejected these proposals and instead repeat the tired refrain that the U.S. should simply unilaterally get out and that prior to any elections a coalition government of "progressive" forces must be imposed upon the people of South Vietnam as we go. Yet non-Communist nationalist South Vietnam remembers the brief coalition experiences with North Vietnam's Communists in 1946 when the nationalists were terrorized and decimated within six months. And South Vietnam remembers the preview of Communist rule in the city of Hue where in 1968 5,700 people were executed by local Communist forces during 26 days of occupation. The U.S. is willing to talk about any settlement that preserves for the South the right to choose its own path free from outside attack, there will be no surrender. North Vietnam didn't make it through a military invasion of the South and she will not be allowed to pick up the victory politically by a U.S. cut and run. The South Vietnamese will have their increased capabilities, their test and their choice.

THE NORTH AFTER HO

In the North, Ho Chi Minh died in 1969. His heirs debate the correctness or the blunder of the policies of 1964, the sending of Northern troops and the resulting cost of the war at home. Hanoi has lost its major industrial development throughout the country. More than 700,000 Northern regular army soldiers have been killed in the South. Since 1968, the Northern wounded are coming home bearing witness by their condition of blindness, loss of limbs or crippled condition to the fury of the battle. Since 1969, death benefit payments have been instituted to the families of Northern soldiers killed in the South further surfacing the public knowledge about the terrible human cost of Northern invasion of South Vietnam.

During the time of the bombing of North Vietnam by the U.S., the war was described as being a resistance against American air raids aimed at softening up the North for invasion. The fact that Northern draftees had been sent to South Vietnam was not publicized. Northern sons were defending the coast against such an invasion. Today with the bombing ended, Northern families ask why their sons have not returned since the post-bombing condition of North Vietnam is described by Northern writers and dramatists as "a time of peace." In some plays and short stories in North Vietnam, there is often a subtle protest role surfaced. The "mother" saying: "Why should I send my son South, so many have gone, so few have returned." In the same pattern, there are hippies in Hanoi, sons of the elite, or drop-outs from the revolution whose dress and life style infuriate the party. In 1971, a rock and roll band was sentenced to 15 years for playing "golden music" in psychedelic cellars in Hanoi luring the youth from the path of revolutionary endeavor. Above all, there is the debate within the Party about the priorities of the war in the South and the need to build and reconstruct in the North. There are constant warnings in the Hanoi Party press to fight the increased corruption and decay that is appearing in the society. The events of 1970-71 concerning Cambodia and Laos offer little comfort to the Lao Dong Party and the 21 million people of North Vietnam under its rule. The war and its costs are very real. Yet for Hanoi there is still no victory in sight.

THREE-DIMENSIONAL FOCUS—NEGOTIATION AND VIETNAMIZATION

These are some of the factors which make it necessary for those who seek to understand this problem to place the Vietnamese in three-dimensional focus. This is unlike any war or situation we have ever encountered and that is why President Nixon has decided to follow a policy that on the one hand offers peace through negotiation and on the other continues to turn responsibilities over to the South through Vietnamization.

SETTING A DATE IN VIETNAM—THE IMPACT ON THE NEGOTIATIONS

Setting a date for a unilateral, final and total withdrawal of all American forces from South Vietnam will undercut the Allied effort to negotiate a just peace and will end any incentive whatsoever for Hanoi's leaders to negotiate seriously. It will deliver the victory the Communists have no hope of achieving on the battlefield and which they have never dared to seek via a test of verifiably free political competition.

ALLIED PEACE PROPOSALS

President Nixon, supported by South Vietnam's President Thieu, on October 7, 1970 proposed a five point program for a just peace calling for:

An internationally supervised cease-fire in place throughout Indochina;

The establishment of an Indochina Peace Conference;

Negotiation of an agreed timetable for the complete withdrawal of all U.S. forces from Vietnam on the basis of North Vietnamese reciprocity and international verification;

A fair political settlement reflecting the will of the South Vietnamese people and of all the political forces in South Vietnam;

The immediate and unconditional release of all prisoners of war by all sides.

The United States has also supported South Vietnam's proposals of July 11, 1969 calling for free elections in which all people and parties of South Vietnam, including the National Liberation Front (NLF) can participate and for a mixed electoral commission on which all parties including the NLF can be represented to work out the modalities and verification procedures for such elections.

ALLIED PEACE STEPS

In addition, the United States has undertaken major steps toward peace. Each of these steps was urged by the Communist side and its American supporters as constructive contributions designed not only to reduce U.S. involvement but also to open the door to negotiations. These steps include:

The 1968 halt to the bombing of North Vietnam.

Agreement on the participation of the NLF in the Paris talks;

U.S. agreement to the principle of troop withdrawals;

U.S. troop withdrawals totalling 265,000 by May 1, 1971, to reach a total of 365,500 U.S. troops withdrawn by December 1, 1971. The authorized ceiling for U.S. military personnel in Vietnam will have dropped from 549,500 in January 1969 when President Nixon took office, to 184,000 by December 1971. Further reductions are expected under the Nixon Administration's Vietnamization program;

A series of de-escalatory steps substantially cutting back B-52 activity and U.S. tactical air activity in Southeast Asia;

Appointment of a new senior negotiator in Paris.

COMMUNIST INTRANSIGENCE

Hanoi and the NLF have rejected these and all other proposals and steps for peace:

They refuse even to consider the Allied proposals as agenda items at the Paris talks. They have continued to reject all notions of reciprocity, verifiably open elections or international verification.

Despite their promises, they refuse to negotiate with the Government of Vietnam.

They demand that the United States commit itself unilaterally and unconditionally:

To total unilateral withdrawal of all troops and war materiel, and the dismantling of all U.S. bases.

To the overthrow of the leaders of the Government of Vietnam (President, Vice President and Prime Minister).

To the arbitrary imposition of a so-called "coalition" government established prior to any elections and in the absence of any international verification. It would consist of the NLF's "Provisional Revolutionary Government" and various personages defined in the NLF's views as "really standing for peace, independence, and neutrality."

In exchange for such a total unilateral commitment by the U.S., Hanoi and the NLF have pledged absolutely nothing. They have at best indicated that if all this was done they might "discuss"—i.e. not release—the prisoners of war.

While Hanoi continues to deny that there is a single North Vietnamese soldier outside of North Vietnam, 100,000 North Vietnamese soldiers are in South Vietnam, 90,000 are in Laos and 50,000 are in Cambodia continuing to wage wars of aggression against North Vietnam's neighbors.

In assessing the unwillingness of the Vietnamese Communists to accept the principles of reciprocity, cease-fire, open political competition, international verification, etc. one must look at their record.

First, the Politburo of Hanoi's Lao Dong (Communist) Party has massively violated all the international agreements it has signed concerning South Vietnam, Laos and Cambodia while it denies that it has a single soldier outside of its borders.

Second, Hanoi's self-proclaimed Marxist-Leninist "peoples' dictatorship" has never dared risk the revealing political litmus test of tolerating the slightest diversity, political competition or international inspections in areas under its control. In contrast with South Vietnam's diverse political parties, highly competitive electoral system and lively parliament and press, Hanoi runs a Stalinist state on the basis of a single slate of candidates, a dormant parliament and total police control. The Hanoi regime is built on the liquidation of all earlier non-Communist "coalition" and "Front" partners and on total monopoly in all political, economic, cultural and military affairs.

Third, the southern branch of Hanoi's Lao Dong Party, the Peoples' Revolutionary Party of the National Liberation Front, is a self-proclaimed Marxist-Leninist party. It is committed, as it demonstrated via systematic political assassinations in the city of Hue during the 1968 Tet offensive, to imposing a rigid Communist "peoples' dictatorship" upon the South Vietnamese.

Fourth, far from involving simply a small independent group of nationalists fighting a "civil war" in South Vietnam, tens of thousands of Communist Hanoi's regular army troops have for years carried on assassination and warfare against North Vietnam's neighbors across North Vietnam's internationally recognized borders.

Fifth, along with their masters in Hanoi, these North Vietnamese forces are dependent on the doctrines, the diplomatic support and for 100% of their arms on the two Communist super-powers, the Soviet Union and Communist China.

Those who urged Allied submission to the demands of the Vietnamese Communists would do well to consider whether the hypocrisies involved in those demands should not be rejected in favor of a rational, reciprocal approach.

If the Hanoi leadership can obtain a unilateral U.S. withdrawal date without undertaking its own withdrawals and accepting the principles of international verification, open elections, prisoner releases, etc., it will have no incentive whatsoever to negotiate seriously and will be encouraged to continue its war policies.

To undercut the chance for a just settlement and to accept the enemy's unilateral demands, would be to betray President Nixon's solemn pledge of May 14, 1969 that the United States, understanding the stakes and sacrifices involved, has "ruled out either a one-sided withdrawal from Vietnam, or the acceptance in Paris of terms that would amount to a disguised defeat."

PROGRESS IN VIETNAM

The war in South Vietnam has wound down to a point well below the levels of previous years as a result of progress in Vietnamization and reduced enemy strength and capability. As a result, the US involvement in the conflict has dropped sharply. The momentum of the pacification program was preserved during 1970, the economy of SVN is beginning to show signs that stability will return, and the political climate is viable. No discernible progress has been made in Paris, despite President Nixon's five-point peace proposal, which provides a fair and equitable basis for a negotiated peace.

U.S. INVOLVEMENT IN THE WAR SHARPLY REDUCED

Redeployments: During 1970, about 135,000 US troops redeployed. US troop strength at the close of the year was 335,000, compared to the 543,000 peak strength in April 1969. As of March 20 there were about 313,000 troops in country, a 22,000 man reduction since the beginning of the year. By May 1971, US strength in Vietnam will be below 284,000 men—the lowest level since July 1966 and about half of the peak strength two years ago.

US Combat and Non-Combat Deaths: US combat deaths in 1970 were the lowest of any years since 1965. They were 55% below 1969 levels; 71% lower than in 1968. In the last half of 1970 they were 54% below the first half rate and were lower than any six month period in the past five years. Combat deaths in December were lower than in any month since October 1965. Since the first of this year combat deaths have averaged about 44 per week (even lower than the 51 per week during July-December 1970). Non combat deaths have declined at about the same rate as US troops have redeployed—despite press allegations to the contrary.

Sortie Rates: In 1970, US planes flew 36% fewer attack sorties in SEA than in 1969. They flew 48% fewer sorties than in 1968. The consumption of air munitions showed similar declines (1970 was 25% below 1969, 27% below 1968). In South Vietnam alone, 52% fewer attack sorties were flown than in 1969 and 53% less than in 1968. So far this year, we have flown one-fourth the number of attack sorties in SVN that we flew last year. And, despite a great deal of air support to ARVN in Laos recently, the SEA-wide attack sortie rates are down about 25%.

Costs: The cost of the war to the US declined about \$5 billion during FY 70, and will drop about \$4 billion further in FY 71. We expect war costs to decline an additional \$3 billion or more during FY 72. To date, estimated savings as a result of Vietnamization since 1968 are \$10 billion.

VIETNAMIZATION/PACIFICATION GOING WELL

Republic of Vietnam Armed Forces (RVNAF): Strength increased 7% in 1970, and 15% since U.S. redeployments began in July 1969. Most of the increase occurred in the forces necessary for pacification—Regional and Popular Forces (RF/PF). The tempo of RVNAF operations has increased as they assume the major burden of the war: RVNAF now accounts for more than 60% of the reported enemy killed in action.

Vietnamese Air Force (VNAF): The number of aircraft has increased nearly 70% since Vietnamization began. Total VNAF sorties flown during 1970 increased 64% compared to 1969, and are holding at those levels so far this year.

Vietnamese Navy: The majority of U.S. naval assets in RVN has been turned over to the Vietnamese. The U.S. naval effort within South Vietnam is now limited to an advisory and support role. (There are, of course, U.S. Navy ships operating in waters off the coast of Vietnam.)

Pacification: During the 1½ year period of U.S. redeployments, pacification progress (as measured by the Hamlet Evaluation System—1970) continued. The HES/70 A-B-C (relatively secure) score rose 14 percentage points (to 95%); the A-B (secure) score gained over 20 points. Captured enemy documents continually confirm the success of the GVN pacification program by exhorting their cadre to attack it.

Experienced observers returning to Vietnam after long periods out of the country unanimously agree that security conditions in the countryside are better than ever before, and that the allied main force military campaign has achieved most of its objectives

in the southern half of the country, partly due to the outstanding success of the Cambodian operations.

A survey of the rural population reveals that economic problems (concern over rising prices) have superseded physical security as their greatest concern—a further confirmation of pacification progress.

ENEMY STRATEGY AND CAPABILITIES LIMITED

The enemy has moved away from a military type conflict, turning to guerrilla warfare in most areas. Battalion sized enemy attacks declined more than 60% during 1970; only one was reported in South Vietnam during the last half of 1970, none thus far in 1971. The enemy has been primarily using terror and harassment—targeting Territorial Forces (RF/PF), paramilitary forces and civilians, while avoiding Regular Forces—a possible sign of weakness.

There were about 103,000 enemy killed in action in 1970 compared to 157,000 in 1969, and 181,000 in 1968. The 34% decline in 1970 is further evidence of the winding down of the war.

Enemy infrastructure (VCI), the political and subversive machinery, remains a serious problem, but is estimated to have declined about 20% in strength during 1970. The Government of Vietnam is increasing the pressure on this subversive threat, mainly by improving the National Police forces.

THE ECONOMY OF SVN IMPROVED

Economic Reforms: Rampant inflation and the economic instability generated by the war have led to recent reforms in exchange rates, advance deposit requirements for financing certain imports, and increased interest rates. These economic reforms were taken to dampen inflation, increase GVN revenues, and to strike at the black market for US dollars and goods. The reforms have temporarily stabilized the Saigon retail price index, and dramatically cut black market conversion of dollars into piastres.

Serious economic problems remain, basically the result of a growing GVN budget deficit and the long range need to promote sound economic development. U.S. Embassy, MACV and USAID advisors continue to work with GVN officials in efforts to extend the recent reforms, establish a sound tax structure, foster economic development and exports, and attract private investment capital.

The Rural Economy: Despite the problems noted above, a quiet economic revolution has taken place in rural Vietnam. While urban income has declined from inflation, the peasant has been getting higher and higher prices for his rice and his real income has risen significantly.

The shift stems from four factors: (1) increased security in the countryside, (2) road networks re-opened or built, enabling the peasant to get his rice to market, (3) the transistor revolution whereby his radio tells him the latest prices of rice in the cities and thus improves his ability to bargain with the rice buyers, and (4) the new "miracle" rice.

1450 miles (2400 km) of roads have been built and opened. An additional 360 miles (600 km) are currently under construction, to be built by mid 1972. The GVN will maintain about 2000 miles (3200 km) of all weather roads in 1971.

"Miracle" rice (a fast growing, disease resistant variety) was cultivated on more than 700,000 acres in 1970. Current programs call for expanding production to 1,858,000 acres in 1971-72. This year Vietnam will produce enough rice to feed itself.

The recently enacted land-to-the-tiller program will ultimately vest ownership of about 2,250,000 acres of rice land in more than 500,000 rural families. Through 30 November 1970, 20,552 titles for 68,666 acres were issued to 17,049 farmers. Nearly one million acres of land are scheduled for distribution in 1971. The program is expected to be com-

plete by the end of 1973 at a cost to the GVN of \$400 million (the US, subject to Congressional approval, is to provide \$40 million for the program).

THE POLITICAL SCENE NOW LIVELY

Elections of senators, provincial councils, and local officials took place in 1970. All of the elections were judged reasonably fair, even by the most critical observers. Moreover, there were indications of increased involvement and sophistication on the part of the average citizen. For example, more than 60% of the rural population now feel that the way to remove ineffective or unpopular officials is to vote them out in the next election.

In 1971, the Vietnamese are scheduled to elect the entire (187 seat) lower House and the President and Vice-President. Electioneering has already begun. Thus far, the three candidates mentioned most frequently for the presidency are President Thieu, General Minh and Vice President Ky. The An Quang Buddhists emerged as a powerful interest group in the Senate elections and are expected to be a strong factor again this year. Enemy attempts to disrupt the elections in 1970 were inconsequential. It is possible that they intend to play a larger role in 1971.

PROSPECTS

U.S. redeployments coupled with Vietnamization, will continue during 1971. The enemy is expected to continue his wait-and-see strategy, largely avoiding military action in RVN.

Despite President Nixon's five point peace proposal; a ceasefire in place, an Indochina peace conference, negotiation of a timetable for complete U.S. withdrawal as part of an overall settlement, search for a political settlement fair to all parties, the immediate and unconditional release of all POW's held by both sides, the Paris peace talks continue to be stalemated. The proposal provides the basis for meaningful negotiation, if only the other side were willing to engage in serious talks. It recognizes the desire of the Vietnamese people and the rest of the free world for an end to hostilities, recognizes that a permanent solution must encompass the whole of Indochina, and recognizes the existence and continued involvement of the other side in the political future of South Vietnam. It does not call for a surrender or even tacit admission by the other side of their deteriorating military and political situation. It assures that the interests of all parties to the conflict can be acknowledged and served.

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VIETNAM

President Nixon has taken a number of significant steps toward ending the war and winning the peace in Vietnam. The United States is fighting to deter North Vietnam's aggression, but at the same time is attempting to achieve a just and honorable peace.

Vietnam has shown steady progress in the two years since President Nixon took office in January 1969 and since the Vietnamization program got underway.

The phased reductions under the Administration's Vietnamization program reduced the authorized American troop ceiling of 549,500 and in-country strength of 542,000 men in January 1969 to 335,000 by January 1971 and to 284,000 by May 1971. On April 7, 1971 the President announced a further reduction to 184,000 by December 1971.

American combat deaths had been reduced from the levels of 14,561 or 278 weekly in 1968 to 4,183 and 80 weekly in 1970 and were averaging 40 or fewer a week in early 1971.

In 1968 the war was costing an additional \$22 billion. In early 1971 the additional costs are running at half that and are steadily decreasing.

Since security in the countryside has substantially improved, local and national governments are performing with increased effectiveness and a number of agricultural and economic programs are underway.

With carefully tailored U.S. assistance under the Vietnamization program, South Vietnam's regular and local forces have greatly increased their capabilities and have taken over the major share in effectively defending their country against North Vietnam's attack.

The limited cross border operations against North Vietnamese bases along the Cambodian border and against the Ho Chi Minh

Trail in Laos demonstrated the growing strength of the South Vietnamese forces in facing the best of the enemy's remaining forces on the enemy's terrain. Large stocks of war materiel were captured or destroyed, several tens of thousands of casualties were inflicted on North Vietnam's forces and Hanoi's offensive timetables were set back by a year. At the same time security was provided to South Vietnam's populated regions and American troop reduction plans were safeguarded.

And even in the midst of war, South Vietnam has continued its path of constitutional development. The National Assembly, the Supreme Court, and the locally elected councils at hamlet, village and province level are playing increasingly important roles. Last August's Senate elections were marked by the participation and victory of the Buddhist opposition slate who called the elections fair, and political participation and progress are expected to continue as South Vietnam approaches new national elections this fall.

The U.S. has maintained a flexible negotiation posture in Paris in the event that the other side will recognize the desirability of concluding the war through serious negotiations rather than prolonged combat.

President Nixon on October 7, 1970, announced a five-point proposal for a just peace in Indochina calling for: (1) an internationally supervised cease-fire in place throughout all of Indochina as part of a general move to end the war in Indochina; (2) establishment of an Indochina Peace Conference; (3) negotiation of an agreed timetable for complete reciprocal withdrawals from Vietnam; (4) a fair political settlement reflecting the will of the South Vietnamese people and the political forces in South Vietnam; and (5) the immediate and unconditional release of all prisoners of war by all sides.

The President has also supported South Vietnam's proposals of July 11, 1969 and October 8, 1970 calling for free elections in which all the people and parties of South Vietnam, including the National Liberation Front, can participate, and for a mixed Electoral Commission in which all parties can be represented.

In his February 25, 1970 report to the Congress, President Nixon recounted major steps toward peace taken by the Allies.

"Since 1968 the U.S. has done almost everything that various parties—including Hanoi—told us would kindle negotiations. We halted the bombing and other acts of force against North Vietnam. We agreed to NLF participation in the Paris talks. We agreed to the principle of withdrawal and made initial withdrawals of American troops. We made substantial withdrawals, soon to total 265,000. We agreed in principle to remove all our troops. We took a series of de-escalatory steps, such as cutting back our B-52 and tactical air sorties. And we appointed a new senior negotiator in Paris."

"These steps, except for the bombing halt, were unilateral measures, designed not only to reduce our involvement, but also to open the door to negotiations. Each of them was urged by the other side as a constructive contribution. None of them has generated movement by the other side."

It takes two to negotiate, but thus far the Communist side has rejected each of the Allied proposals and continues to press its attacks. As a condition for even discussing these proposals, they insist that we accept their demands for total and unconditional U.S. withdrawal and end the Vietnamization assistance program for the prior removal of the elected leaders of the Government of South Vietnam and for the imposition of an NLF run "coalition" government prior to any elections.

Finally, any evaluation of the American role in assisting the South Vietnamese in

their struggle against North Vietnam's aggression must consider the fact that the South Vietnamese people have much to fear from the pattern of massive repression systematically practiced by North Vietnam's Communist Party. In North Vietnam this Stalinist Party operates a "peoples' dictatorship" which permits no forms of opposition or diversity. Its liquidation policies against its short lived "coalition" partners of 1945-1946 and of those who differed with Communist policy after 1954 in the North are matters of public record. It is this record and the record of the party's southern branch, the Marxist-Leninist Peoples' Revolutionary Party of the so-called National Liberation Front (who in the city of Hue, for example, systematically assassinated thousands of their opponents) that perhaps explains South Vietnamese desire for help in resisting Hanoi's armies and its front.

In his February 25, 1971 report to the Congress, President Nixon restated the goals of American policy in Indochina.

"I will continue to do what is necessary to protect American men as they leave Vietnam. Throughout I will keep the American people and the Congress fully informed.

"A negotiated settlement for all Indochina remains our highest priority. But if the other side leaves us no choice, we will follow the alternate route to peace—phasing out our involvement while giving the region's friendly countries the time and the means to defend themselves."

VULTURES TOO FULL TO FLY

HON. CORNELIUS E. GALLAGHER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. GALLAGHER. Mr. Speaker, I rise today to comment briefly on the situation in East Pakistan, or Bangla Desh as the Bengalis and their supporters prefer it to be called. On May 11, my Foreign Affairs Subcommittee on Asian and Pacific Affairs held a hearing on this matter. We were scheduled to meet May 13 to hear the witnesses from the Department of State and the Agency for International Development in executive session and professor Robert Dorfman of Harvard University in open session. Unfortunately, that day of hearing must now be postponed and it will be rescheduled as soon as possible.

Whatever the politics involved in this region, I firmly believe that one of the great human tragedies of modern times may be in the process of being created. As additional background material for the continuing debate over the American role and the role of the world community in mounting a humanitarian assistance program, I would like to call my colleagues' attention to the testimony of Senator EDWARD M. KENNEDY before my subcommittee yesterday, a position paper of the Ripon Society dated April 3, and a news dispatch from the Washington Star of May 12.

The phrase in the news dispatch about "vultures too full to fly" may be regarded as vulgar by many people unfamiliar with the history and the potential for tragedy in this region. However, it does graphically reflect the position of many who are intimately familiar with past events and with informed future predictions.

Mr. Speaker, I ask that the material referred to be inserted into the RECORD at this point, as well as my opening statement at the hearing yesterday.

OPENING STATEMENT OF CONGRESSMAN CORNELIUS E. GALLAGHER

The Subcommittee will come to order.

We are beginning hearings today looking into the situation in East Pakistan with particular emphasis on the related problems of refugees and famine.

I think it would be useful to briefly summarize events leading to what may be one of the worst human tragedies in modern times.

In November 1970 a cyclone and flood killed thousands in East Pakistan and crippled the main port of Chittagong. The recent fighting has prevented most crops from being planted. Because East Pakistan is a food deficit region in the best of times, as many as 30 million people may starve, according to reports said to have been submitted to the Agency for International Development and the World Bank. Right now, refugees are streaming from East Pakistan into India at the rate of 60,000 each day, swelling the already strained Indian food supply by an estimated 1.5 million new mouths to feed.

The refugees and the potential famine are the result of civil war which broke out on March 25, 1971. While politics of Pakistan and the Subcontinent are not the focus of this hearing, it is important to remember that in the election for a National Constitutional Assembly in December 1970, the Awami League captured 167 of the 169 seats contested in the East. This gave them an absolute majority of the 313 seats contested in all of Pakistan.

While the government of Yahya Kahn now is in apparent control of the cities, those who embrace autonomy for Bangla Desh claim the countryside. Factually, the countryside of East Pakistan is the equal of the countryside of South Vietnam in providing natural surrounding for insurgency and the fighting thus far has produced reports of savage atrocities on both sides.

Putting this together, we seem to have a situation which is potentially equal, in terms of human misery, to a combination of Vietnam and Biafra. Because of our military aid to the Central Government it appears that our arms, in conjunction with those supplied by other governments, are being used to defeat the people who won the election.

While these and other questions are as important as they seem to be unanswerable at this point, our focus is the immediate threat to the lives of millions. To emphasize that concern, we are very pleased to welcome this afternoon Senator Edward M. Kennedy of Massachusetts. His Subcommittee on Refugees of the Senate Judiciary Committee has produced extremely valuable information about the impact of policy on people and the dimensions of the suffering and the displacement in countries where war has been conducted. The humanitarian aspect of the East Pakistan situation must be considered by all the parties involved and it will be a great pleasure to hear Senator Kennedy discuss the information developed by his Subcommittee.

STATEMENT OF SENATOR KENNEDY ON CRISIS IN EAST PAKISTAN BEFORE THE HOUSE FOREIGN AFFAIRS SUBCOMMITTEE ON ASIAN AND PACIFIC AFFAIRS

I appreciate very much the opportunity to be here this afternoon—because, as Chairman of the Judiciary Subcommittee on Refugees, I share your deep concern for the victims of natural disaster and civil war in East Pakistan. I am hopeful these hearings will contribute toward a better understanding of the undeniable problems which exist in relieving this basically humanitarian problem. And I am also hopeful that the

hearings will underscore the urgent need to further encourage the initiatives underway to meet the needs of the Bengal people.

Official reports from our government and elsewhere express very serious concern about the condition of the people in East Pakistan. These reports say that within a month the condition of the people will become "acute". The precarious situation which exists today will evolve into a nightmare of death for millions—unless immediate and concerted efforts are made to meet the needs of the people involved.

Although reports from East Pakistan suggest that violence has subsided considerably, reports also indicate that feelings are tense between the people and the army of the central government. In fact official reports to our government suggest that the great bulk of the population is alienated, perhaps forever. Regrettably, this can only complicate, and perhaps delay, the organizing of a meaningful relief program, and the solving of those political problems which generated the recent violence.

Moreover, reports also indicate that the army effectively controls only the cities and towns, and that throughout most of the countryside, government administration and services do not exist. The transportation and distribution of available foodstocks and medical supplies are at a standstill—even in the area struck by the cyclone last fall, where conservative estimates say a million persons have been solely dependent for their survival on effective relief operations. Food reserves—not confiscated by the army—are very low.

The tragedy, finally, has now spilled over into India, which so far has found it necessary to give asylum to nearly 2,000,000 refugees—of whom at least 528,000 are in camps. The recent daily influx into India has reportedly been some 50,000. The State Department informs me that the influx will continue at a high level, "at least until the beginning of the monsoon in a few weeks, when both military operations and travel will become more difficult". The continuing heavy influx of refugees into India is a stark reminder of how bad conditions have become in East Pakistan.

Over the last month I have repeatedly communicated my concern in these matters to officials in the Department of State and elsewhere, in an effort to encourage and support reasonable initiatives by our government and the international community to help meet the urgent political and humanitarian problems in East Pakistan. I have strongly believed these initiatives should be taken through the United Nations.

On the humanitarian problems, at least, some progress is being made.

On the Indian side of the border, and at the invitation of the Indian government, representatives of the United Nations High Commissioner for Refugees (UNHCR) are currently assuming relief needs and developing a plan of international action. According to a communication I received from the Department of State this morning, our government has "authorized up to \$2.5 million in food and other assistance as our initial contribution to the international relief effort."

While the UNHCR effort is being organized, the U.S. is providing emergency food assistance for 217,000 refugees in West Bengal. The food assistance is being distributed by CARE, Catholic Relief Services, and Church World Service/Lutheran World Federation.

Far less progress in meeting relief needs is being made in East Pakistan. Initiating an adequate relief program is undoubtedly being hampered for a number of good reasons—but, on the basis of talks I have had, the primary cause may very well be a simple lack of candor in recognizing the vast dimension of human need brought on by the conflict. Let us not quibble over how we label the situation. Whether we call it a minor disturbance, a disaster, or an emergency—the

threat of mass starvation puts a heavy obligation for action on the government of Pakistan and the international community.

In the name of neutrality, some in our government say we must not be involved in East Pakistan today. But we are involved. Our weapons have been involved in the violence. Our aid has contributed to East Pakistan's development for more than a decade. And today, our government, at the highest levels, is involved in discussions for even more aid. So we are involved. The only question, is what this involvement will be. At this point it must be humanitarian—aid that will heal and rehabilitate, not further divide and destroy.

In this connection, I strongly urge that our government leave no stone unturned—especially this week when high level representatives of the Pakistani government are present in Washington—in supporting current efforts by the United Nations to organize a relief program within East Pakistan. Since the last week in April representatives of UNICEF, the U.N. development program, and the World Food Program have traveled to Dacca to ascertain relief and logistical needs.

Moreover, representatives of the Pakistani government have assured me of their government's willingness to accept humanitarian aid and personnel through U.N. channels and private voluntary organizations. Thus there is nothing but inertia to prevent a meaningful relief effort.

Solving the political and humanitarian crisis in East Pakistan is, first of all, Pakistan's task. But in this effort, there is scope enough for all the energy and charity that the emergency of the civil war has called forth, among Americans and peoples throughout the world.

And so today, as an individual concerned about the dignity and preservation of the ultimate resource in our planet, I appeal to the leaders of Pakistan, to the leaders of other countries, and to our own government, to support immediately a mercy mission and airlift into areas of need. And, hopefully, the appeal of the Indian government for assistance to meet refugee needs within her borders, will also receive the sympathetic response by all concerned.

We are conditioned in this world we have created to accept suffering and injustice—especially in our time when violent conflict and oppression are active in so many areas. But the newer world we seek will not evolve if we ignore these challenges to leadership, and take comfortable refuge in the mundane patterns and attitudes of the past.

In the case of East Pakistan—in the effort to help a people caught in the clutches of natural disaster and the passion of conflict—I cannot believe that governments stand paralyzed in the fact of great tragedy. The situation must not be ignored. At stake are human lives—innocent lives—Pakistani lives—thousands, even millions of lives—whose destruction will burden the conscience of all mankind unless something is done to save them.

PAKISTAN: BACKGROUND TO A CRISIS

(NOTE. This paper was reviewed for the Ripon Society by a committee consisting of: J. Lee Auspitz, President, Ripon Society; Stephen A. Marglin, Professor of Economics, Harvard University; Gustav F. Papenek, Lecturer on Economics and former Director, Development Advisory Service Harvard University.)

I

History of economic and political domination of East Pakistan

In many ways East and West Pakistan have never been one country. Even at its strongest, the bond between East and West Pakistan was somewhat tenuous. They are physically more than 1,000 miles apart, the people speak different languages, have different cul-

tures and different economies. They have in common religion, a short history, and the same central government.

Since the formation of the state of Pakistan 24 years back, the East Bengalis have derived little benefit from the association other than a limited sense of security that the Hindu landlords would not be able to return and repossess the land.

It has become increasingly apparent that the economic and political interests of the East Pakistanis have been systematically subordinated to those of West Pakistan. Even the Central Government's highest planning authority was forced to take official notice of the widening economic disparities between the two regions. A recent report¹ by a panel of experts to the Planning Commission of the Government of Pakistan showed that, while average (per capita) income in the West was 32% higher than in the East in 1959-60, the disparity had almost doubled to 61% ten years later in 1969-70.²

The Central Government's instruments of tariffs, import controls, industrial licensing, foreign aid budgeting, and investment allocation have been used to direct investment and imports to develop high-cost³ industries in West Pakistan whose profitability is guaranteed by an East Pakistan market held captive behind tariff walls and import quotas. Though 60% of all Pakistanis live in the East, its share of Central Government development expenditure has fluctuated between a low of 20% during 1950/51-1954/55 and a high of 36% in the period 1965/66-1969-70.⁴ East Pakistan's share of private investment has averaged less than 25%. Historically, 50% to 70% of Pakistan's export earnings have been earned by East Pakistan's products, mainly jute, hides and skin. Yet its share of foreign imports (which are financed by export earnings and foreign aid) has remained between 25% and 30%.⁵ Basically, the East's balance of payments surplus has been used to help finance the West's deficit on foreign account leading to a net transfer of resources, estimated by an official report⁶ to be approximately \$2.6 billion over the period 1948/49 to 1968/69.

The subordination of the East's economic interests has been accomplished by the overwhelming concentration of governmental authority in the hands of West Pakistanis.

After the military regime of Ayub Khan took power in 1958, the East has had little political representation in the Centre. Only cooperative Bengalis were appointed to political office, and in the powerful Civil Service, Bengalis held only a small fraction of the positions. Under-representation of Bengalis in the army was even more severe, believed to be 10% or less. Ayub Khan, against whom the Bengalis had voted heavily in 1965, was forced to resign because of widespread unrest in both East and West, culminating in demonstrations and strikes in 1969. Since taking power in the Spring of 1969, Yahya Khan's martial law regime has always spoken of itself as an interim government to be replaced after popular elections. In the economic and social spheres, the army made no innovations. However, the military did take one positive step: they held free and fair elections in December of 1970, both for a Constituent Assembly and for Provincial Assemblies.

These elections were based on "one man, one vote;" this meant that in the Constituent Assembly the East was allotted roughly 55 percent of the seats. Two parties dominated the elections. In the East, Sheikh Mujibur Rahman's party, the Awami League, won 167 out of 169 seats for the Constituent Assembly; in the West, Zulfikar Ali Bhutto's party won approximately 80 out of 140 seats. The Awami League actually had sufficient seats to be a majority in the Constituent Assembly.

Footnotes at end of article.

The Awami League ran on a single issue, autonomy? for East Pakistan. Until the shooting began on March 25, they did not seek independence but a loose union with the West. While on paper they had the votes to dominate a strong central government they presumably felt they could not, in fact, dominate, given that the military, the civil service, and the large businesses were all in the hands of West Pakistanis.⁷ Therefore, they opted for a form of government which would give them control over what they considered their essential interests. The established interest groups in the West, particularly the military whose budget was threatened and large businesses who stood both to lose markets and the foreign exchange earnings of the East, opposed autonomy for the East.

When it was clear that the East would not compromise on its demand for autonomy, President Yahya Khan postponed the Constituent Assembly scheduled for March 3, resulting in demonstrations in which hundreds of people died in army firing on March 1. Despite this provocation, Sheikh Mujib kept the door for negotiations open. General Yahya Khan appeared to respond by holding talks for two weeks with the Awami League leadership. In retrospect, this appears to have been a ploy to buy time for reinforcing the West Pakistani armed forces in the East. On March 25, the military authority outlawed the Awami League, arrested its leaders, and opened fire with tanks, artillery, and automatic weapons (much of it supplied by the U.S.) on the defenseless and unarmed civilians.⁸

The military's approach appears to be to intimidate the urban population through a reign of terror. Killing and destruction apparently have been indiscriminate. Reports on the number killed in the first three days ranged from 15,000 up.

In the short run the army can intimidate the people of the major cities. But it cannot even now control any substantial part of the countryside. In the long run the military position is untenable. In a hostile environment and given the logistical problems, maintaining even the 60,000 West Pakistan troops now in the East, will be difficult. Moreover, the military cannot possibly guard the borders or prevent the Bengalis from acquiring arms with which to resist.

The Bengalis have now declared themselves independent and have the will to fight. In the end, they will win; the only question is time, how many deaths, and how much destruction must take place before they achieve their independence.

The recent elections provided East Pakistan with a political party capable of governing. Rather than a civil war, the present action is more of an invasion of one state by the military of another, with the aim of overthrowing a duly elected government and subjugating the people.

II

An independent East Pakistan in the international community

Bangla Desh, the name chosen by East Pakistanis for their desired nation, is bound to establish good relations with India. Apart from the cultural bonds of a common language—Bengali—between East Pakistan and the state of West Bengal in India, interest in strong economic ties coincides. The industrialization of East Pakistan would be greatly facilitated by the nearby supply of coal and iron ore in West Bengal. Even for agricultural growth, much of the investment to improve water control would have to be undertaken in India, presumably as cooperative ventures, likely with World Bank support. India would benefit not only from water control but also from direct access to the East Pakistan market, and incidentally by the improvement of access to Assam. Historically, in spite of evident mutual interest in

regularizing cultural and trade relationships between India and East Pakistan, such a development was consistently discouraged and resisted by the West Pakistani-dominated government. Specifically, the West Pakistanis believed that, short of war and victory, they have no other lever to force a settlement of the Kashmir claim but the economic interest of India in resuming trade in the East.

An independent Bangla Desh may set up minor economic ties with China, but these are likely to be much less than the current scale of trade and aid between China and Pakistan. The chance of international links between China and Bangla Desh are likely to increase the longer the independence struggle takes to achieve its goal, since its control may, over time, slip from moderate Awami League leadership to more militant and leftist elements such as the National Awami Party (which did not contest the December elections).

In recent years U.S.S.R. has competed with China for influence over the West Pakistani-dominated Central Government, using the levers of economic and military aid. In its newly established relationship the Soviet Union's contacts have been confined to the military regime in West Pakistan. Though it is hard to predict the Soviet attitude towards an independent Bangla Desh, ties with the Soviet Union are unlikely to be any stronger than with China.

III

United States policy: Past and future

The likely pattern of United States relations with Bangla Desh depends crucially on U.S. policy in the current crisis—particularly with regard to the decisions on economic and arms aid to the Central Government in West Pakistan. To appreciate possibilities for U.S. policy, a little history is helpful.

Since the early 1950's when Pakistan joined mutual security pacts of SEATO and CENTO, she has received massive economic and military aid from the United States. By 1969 economic aid amounted to about \$3 billion and military aid, a classified number, has been estimated to have been between \$1.5 and \$2 billion. This assistance has included F-104 Starfighters, F-84 Sabre jets, C-130 transports, Patton tanks, armored personnel carriers, heavy artillery, and automatic weapons. This arsenal of sophisticated equipment was explicitly intended for defense, and in terms of the context in which they were provided, the Communist Bloc was seen as the potential aggressor. After the 1965 Indo-Pakistan border war, when the U.S. imposed an arms embargo on both countries, the Pakistan government turned for support to another adversary of India, i.e., the People's Republic of China.

The Pakistani initiative was sympathetically received by China, presumably not so much because of the Sino-Indian conflict but because it represented a breach in SEATO and CENTO. The growth of Chinese military and economic aid spurred similar offers from the Soviet Union, anxious to get into the act of weaning Pakistan away from its military alliances with the Western powers. Perhaps because the United States still believed it could compete for influence with Pakistan through arms sales, or perhaps due to the sheer momentum of long and close ties between the Pentagon and the military superstructure in Pakistan, attempts to circumvent the arms embargo gathered strength in 1967. Attempts were made to persuade "third countries"—West Germany and Turkey—to sell arms previously provided by the U.S. to Pakistan for nominal prices, with the assurance that the U.S. would replace these weapons with newer equipment.¹⁰ Though this particular move of the Johnson Administration was frustrated by the unwillingness of any suitably equipped third country to go along with the arrangements, in October 1970 the Nixon administration offered to sell Pakistan certain items including a squadron

of F-104 Starfighters, a squadron of B-57 bombers,¹¹ and about 300 armored personnel carriers.

Viewed from the United States, the emergence of an independent Bangla Desh friendly to India is likely to aid the long-term U.S. foreign policy goal of reducing conflict and tension on the Indian sub-continent. The issue of Kashmir, a matter on which East Pakistan has never been aroused, will continue to divide India and West Pakistan. But as a separate entity, West Pakistan is unlikely to have the capacity to continue the long and costly confrontation with India, which has sapped the scarce resources of both these poor countries.

An independent East Pakistan will probably follow a moderately pro-Western policy, which may be consolidated with the provision of aid by U.S. and multilateral agencies. But if the struggle for independence is prolonged by the continuation of U.S. aid to the Pakistan government, the damage to the United States' image and the rise to power of leftist elements in the independence movement will both frustrate the development of friendly relations with the U.S. Eyewitness reports in the *Washington Post* and *New York Times* confirm that American arms are now being used, along with Russian and Chinese, to establish a reign of terror in East Pakistan. The American Government must not be party to the killing of defenseless civilians or the forcible repression of the struggle by East Pakistanis for control over their own lives. Since the agreements under which the arms were given limit their use for defensive purposes, the U.S. certainly has a basis to protest their use for massacring unarmed civilians.

Continuing military and economic aid is not neutrality in this matter. In the current situation, all aid is bound to flow to the government in West Pakistan. At the very least, the United States should prevent deliveries under the October 1970 arms offer, avoid all further arms deals, and cut off economic aid to Pakistan. Such action, together with moral and diplomatic pressure, could bring an end to hostilities and lead to early institution of democratic government.

FOOTNOTES

¹ Reports of the Advisory Panels for the Fourth Five Year Plan 1970-75, Vol. I, Planning Commission, Government of Pakistan, July, 1970.

² Planning Commission, *op. cit.*, p. 2.

³ Soligo, R. and Stern, J. J., "Tariff Protection, Import Substitution, and Investment Efficiency." *Pakistan Development Review*, Summer 1965. This demonstrates the inefficiency of nearly all industries.

⁴ Planning Commission, *op. cit.*, p. 6.

⁵ Foreign Trade Statistics, various issues, Central Statistical Office, Government of Pakistan.

⁶ Planning Commission, *op. cit.* Appendix III.

⁷ The Six-Point autonomy program of the Awami League is:

(1) Establishment of a federation "on the basis of the Lahore Resolution and the Parliamentary framework of government with supremacy of legislature directly elected on the basis of adult franchise."

(2) Federal government shall deal with only two subjects; that is defense and foreign affairs and all other residuary subjects should rest in the federating states.

(3) There should be either two separate but freely convertible currencies for the two wings or one currency for the whole country, provided that effective constitutional provisions were made to stop the flight of capital from East to West Pakistan. There should be separate banking reserves and a separate fiscal and monetary policy for East Pakistan.

(4) It denies the centre the right of taxation and vests it in the hands of the federating states with the centre receiving a fixed share.

(5) Foreign trade: Five steps.

(a) There shall be two separate accounts for foreign exchange earnings.

(b) Earnings of East Pakistan shall be under the control of East Pakistan and the same for West Pakistan.

(c) Foreign exchange requirements of the federal government shall be met by the two wings either equally or in a ratio to be fixed.

(d) Indigenous products shall move free of duty within the wings.

(e) The constitution shall empower the unit governments to establish trade and commercial relations with, set up trade missions in, and enter into agreements with foreign countries.

(f) Setting up a militia or para-military force by East Pakistan.

⁸ Papanek, G. F., *Pakistan's Development: Social Goals and Private Incentives*, Harvard University Press, 1967.

⁹ The *Washington Post*, March 30, gives a graphic account of the massacres committed with the use of armored units in Dacca, the regional capital of East Pakistan.

¹⁰ Bowles, Chester, *Promises to Keep: My Years in Public Life 1941-1969*, p. 521, Harper and Row, 1971.

¹¹ Bowles, *op. cit.*, p. 522.

[From the Washington Evening Star, May 12, 1971]

VULTURES TOO FULL TO FLY—EAST PAKISTANI CALAMITY DEFILES BELIEF

(By Mort Rosenblum)

DACCA, EAST PAKISTAN.—Vultures too full to fly perch along the Ganges River in grim contentment. They have fed on perhaps more than a half million bodies since March.

Civil war flamed through Pakistan's eastern wing on March 25, pushing the bankrupt nation to the edge of ruin. The killing and devastation defy belief.

From a well at Natore, fetid gases bubble up around bones and rotting flesh.

A tiny child gazes at a break in the lavender carpet of water hyacinths in a nearby pond where his parents' bodies were dumped.

TOLL COULD BE MILLION

No one knows how many Bengal families the army machine gunned or how many migrant settlers Bengal secessionists slashed to death. But estimates of the total dead start at six figures and range to over a million.

In the port city of Chittagong, a blood-splattered doll lies in a heap of clothing and excrement in a jute mill recreation club where Bengalis butchered 180 women and children.

Along the road to the mill, entire blocks of Bengal homes and shops were blasted and burned to the ground by the revenging Pakistani army.

Reporters were banned from East Pakistan from March 26, when 40 newsmen were bundled out and stripped of their notes and film, until the government escorted in a party of six on a conducted tour May 6-11.

From visible evidence and eyewitnesses questioned out of official earshot, the following account emerged:

Throughout March, Sheikh Mujibur Rahman's Bengaldominated Awami League harassed the military government with a non-cooperation campaign demanding autonomy and more benefits from West Pakistan.

Bengalis killed some West Pakistanis in furies of chauvinism.

Mujib's party had won a majority in the National Assembly elections and he was Pakistan's major political figure. But negotiations in Dacca with President Agha Mohammed Yahya Khan broke down, and Yahya flew back to West Pakistan March 25. That night the army reared out of its barracks, and East Pakistan was aflame.

PROFESSORS EXECUTED

Soldiers assaulted two dormitories at Dacca University where radical Bengali students

made their headquarters. They used recoilless rifles, then automatic weapons and bayonets.

They broke into selected professors' and students' quarters. They executed some 14 faculty members, at least one by mistake. Altogether, more than 200 students were killed.

Army units shelled and set fire to two newspaper offices, then set upon the Bengali population in general. More than a dozen markets were set afire, and at least 25 blocks were devastated in Dacca.

Hindu Bengali jewelry shops in the Shakari Pathe quarter were blown apart. Two Hindu villages inside the Dacca race course were attacked with almost holy war fury by the Moslem troops.

Accounts, projected from body counts at mass graves indicate about 10,000 persons were shot to death or burned to death the first few nights in Dacca.

Official spokesmen contended that the army went into action to stop a rebellion planned for 3 o'clock the next morning. They insisted that the army killed no one but those who fired at the soldiers.

But other officers said the rebellion plot was only an assumption.

Eyewitnesses said at least hundreds of the victims were women and thousands were unarmed civilians gunned down indiscriminately.

"I took firm action to prevent heavy casualties later," said the martial law governor, Lt. Gen. Tikka Khan.

Dacca was brought under army control quickly, but word of the army action flashed through the province of 58,000 square miles and 75 million inhabitants, one of the world's most densely populated areas.

Thousands of Bengalis in the army, police, militia and border forces revolted. Under the banner of Bangla Desh, the independent Bengal state, the deserters and armed volunteers fought back, seizing wide areas of the provinces before the 11,000 West Pakistani regulars could occupy them.

Bengali civilians and "liberation troops" began a mass slaughter of Mohajirs—Indian migrants from the 1947 partition—and West Pakistanis.

They raced through marketplaces and settlements, stabbing, shooting and burning, sometimes stopping to rape and loot.

The army shelled towns and fired at anything that moved. The army action was far more brutal than anything seen in the Nigerian civil war.

Europeans likened the damage to that of the hardest hit theaters of World War II.

problems overcome if we are to insure the continued effectiveness of educational facilities in the city.

Hand-in-hand with financial difficulties, the New York City school system is currently confronted with an attempt to reduce the authority or dispense altogether with the services of many highly qualified school administrators and teachers, for political reasons only, at the expense of educational standards.

Because many of the persons jeopardized by these developments are members of the Jewish faith, the matter has come to the attention of a reputable New York City newspaper, the Jewish Press. I would like to include in the RECORD an editorial from the Jewish Press stating the problem in some detail, from the point of view of the distinguished New York City educator and rabbi, Dr. Karl Applbaum.

A chaplain, lawyer, social worker, author, and full colonel in the Retired Reserve, Dr. Applbaum has become a legend in his own lifetime. He holds no less than seven doctorates, two masters degrees, and two bachelors degrees. Descending from a long line of rabbis who served their people all over the world, he is the brother of rabbis and the father of a rabbi. Not only did he serve the United States as an Army chaplain, but his son also served as a chaplain for 4 years.

Dr. Applbaum served as commander of his own post and as county chaplain in both the Jewish War Veterans and the American Legion. He is serving as national chaplain of the Reserve Officers Association of the United States for the second time. His sponsor for this position was Monsignor Francis X. O'Brien, a famous Army Chaplain.

Rabbi Applbaum served as president of the Long Island Chapter of the Association of the U.S. Army and is presently chairman of its Board of Governors. He is a member of the Military Chaplains Association of the United States; the International Platform Association; the Queens County Bar Association; the New York State Bar Association; the American Public Welfare Association; the New York State Welfare Conference; and the American Judicature Society. He is a past chancellor of the Knights of Pythias and a member of the Odd Fellows Lodge, the Royal Arcanum, and many, many more groups. His biography appears in nearly every biographical directory. It also appears in the newly published Who is Who in the World." On several occasions he has been invited to deliver the Invocation in the U.S. House of Representatives. He is a member of the community of school board 25, where he watches over the destinies of the members of the next generation, making sure that their minds are not poisoned by some of the new-fangled ideas to which they are exposed. Among the moments when he is proudest are the times when he was received in private audience by their Holiness Pope John XXIII and Pope Paul VI.

The rabbi is married to the former Helen Siegel who is a member of the staff of Queens County's District Attorney; the Rabbi and Mrs. Applbaum

are the parents of two daughters and a son and have six grandchildren.

His views on the New York educational crisis have been reported on for our benefit in the Jewish Press.

[From the Jewish Press, Mar. 6, 1971]

THE NEW YORK SCHOOL MONEY CRISIS AND SOME POINTED QUESTIONS

(By Ben Greenberg)

There were supposed to be a whole series of intrigues involved in the New York City school money crisis, and Dr. Carl Applbaum, an educator and Rabbi, is apparently one man who would like answers to some very pointed questions.

When the cutback announcement was made, radio station WINS carried an editorial discussing the Board of Education's predicament.

In summary, the WINS editorial suggested that the sudden news of the financial problem was simply the Central Board's way of having their voice heard in Washington and Albany.

Dr. Applbaum disagreed and requested time from WINS to reply to their editorial, and that time was granted.

No newcomer to education, Dr. Applbaum, who holds 7 doctoral degrees and is also a full Colonel in the U.S. Army, pulled no punches and charged that the school deficit arose because of some rather nefarious shennanigans, implying that it was a move to create an atmosphere of "antagonism and hate." He charged that the announcement was merely a ploy to destroy the "Aid to Parochial School" bills that were pending in Albany.

He claimed that a number of legislators told him, "How can you expect us to give money to Yeshivos when there is a serious financial shortage in New York City?"

Dr. Applbaum fired back with, "If you want the truth, the Central Board is using this so-called crisis as a subterfuge to fire Jewish employees in the school system."

Dr. Applbaum was referring to a great many educators, who are Jewish, who have full qualifications and could have obtained appointments had not the "crisis" taken place. As a result of the "crisis," Dr. Applbaum implied that the Central Board would turn around and put on local Blacks and Puerto Ricans who may not have full qualifications, to replace the Jewish candidate. He also pointed out that with a series of cutbacks, many old time Jewish principals would more than likely leave their posts rather than be forced to administer a school with less personnel, and then the Board could replace these people with Blacks and Puerto Rican administrators who may not have the experience nor the qualifications.

"I cannot see how the two Jewish members of the Board of Education could have sat by and seen the attempts made to cut back on Jewish employees," Dr. Applbaum charged.

"As long as there is a breath of life in me, I will not stand by idly and see a conspiracy to replace Jewish employees with others of different colors and faith. The Board of Education apparently has money for the many frills they enjoy."

In his WINS reply, Dr. Applbaum charged, "The large number of jobs created by the Board of Education at salaries ranging from \$18,000 to more than \$40,000, indicates that it (The Central Board) purposely created an atmosphere of fear. If there was any shortage of funds why did the board wait till the very last minute to publicize the fact? Could it have been that they waited until the legislature extended its term of office for another year? And why has the Central Board instructed the local boards to engage executive directors, purchasing agents, personnel managers, while the Central Board was still paying salaries to people in the very same categories?"

NEW YORK'S EDUCATIONAL CRISES AS VIEWED BY DR. KARL APPLBAUM

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. HALPERN. Mr. Speaker, there is no more disturbing aspect of the so-called population explosion in America than the resulting economic pressure on that most vital of our national institutions, the public school. Everywhere, the public school is pressed for economic needs, and nowhere is the case more evident than in our large metropolitan areas.

Under the circumstances, the people of New York City are deeply concerned about the current economic crisis afflicting their school system. The reasons for the crisis must be uncovered and the

"Why did the Board select a Chancellor at the unheard of salary of \$53,000 a year and then give him an assistant at the unexplainable salary of \$49,000 a year? Why has the Board spent millions of dollars on consultants to train local school boards, when its own highly trained staff could have conducted these training meetings—that they knew would be poorly attended? If there is a shortage of money why does the Board arrange meetings at its central office with dinners paid for by the Board? Why has the Central Board allowed local boards to engage assistant district superintendents when there is no need for them at this time, except maybe the desire of the Central Board to assure "job-holder vacancies."

"Was the board's present claim of financial shortage aired now because of the Board's opposition to aid to Private and Parochial education?"

Then Dr. Applbaum fired a full salvo of charges calling for:

1. The abolition of the Central Board of Education.

2. The abolition of the "kingdom" at Livingston street and placing the 31 local school boards and their schools under the immediate supervision of the State Commissioner of Education.

3. No new hiring for any position at a salary higher than \$20,000 for a six day, 180 school day year.

Dr. Applbaum further accused the Central Board of spending millions for the Paraprofessions, plush hotels, and even conferences at Grossingers.

The financial crisis is over for the moment, but Dr. Applbaum does have some valid questions that should be looked into.

There is no secret that there may be "loose spending" at the Central Board. Is it true that Dr. Scribner was selected for his post because the only other possible candidates were both Jewish, rather than on his superior qualifications?

If a Jew had been selected as Chancellor, it was felt by elements outside as well as within the Central Board that this could bring on flack from the ghetto areas of this city.

Dr. Applbaum's charge that the Central Board lowered the boom on the financial crisis, just when aid to Parochial education bills were being ping-ponged back and forth in Albany, may not be coincidence.

The fact that the Board has allocated a budget for dinners for the Central Board or even a golf caddy for Dr. Scribner may be small items. However, we're willing to bet that such budgetary appropriations would more than cover the salary of at least one teacher in the school system! If the pinch is on, austerity should be enforced all around!

The fact that Dr. Applbaum would like to close down the "kingdom" of bureaucracy at the Board of Education's headquarters on Livingston street may also have some merit. The supervisory staff that the Board pays millions to, to "guide" the education system has been called "poor" or "outdated." In the past when a principal could no longer function in his or her school or community, he or she was sent to the "Livingston St. farm" formerly known as "Donovan's Farm" and made a superior.

Dr. Applbaum may very well be voicing the opinions of the so-called "silent majority!"

LOOKING BEYOND THE CRY FOR RELEVANCE

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. HELSTOSKI. Mr. Speaker, in these days of discussion about genera-

tion gaps and differences, I believe all of us must avail ourselves of as many viewpoints as possible if we are to hope to bring about understanding and an end to present-day turmoil.

Thus, I place in the RECORD an article written for the Hatchet, a George Washington University student newspaper, by Prof. William R. Throckmorton on the subject of relevance. Professor Throckmorton is an assistant professorial lecturer in sociology at George Washington University. He works in the Manpower Administration of the U.S. Department of Labor and prior to that served as a staff member for two U.S. Senators.

The article follows:

LOOKING BEYOND THE CRY FOR RELEVANCE (By Prof. William R. Throckmorton)

One of the battlecries of today's student revolution is "relevance." Maybe the students are right. I have found, however, that many students, when confronted with the opportunity to participate in change from traditional teaching techniques, fall back on their old ways.

At the outset, let me say that I agree with many of the critics of today's educational scene and with many of the students: There should be a greater degree of participation by students in the selection of courses they want to take, as well as in the development of course offerings made by the academic institution; and further, there should be competent teachers for such courses, and the course offering ought to be more "in tune with the times." But, even without these needed changes, are the traditional techniques enough of a reason for students' "dropping out?" I think not.

GHETTO DROPOUTS

Sociologist Edgar Friedenberg has noted that young blacks in ghetto high schools who drop out are probably a better moral resource for society than those who stay in, because they do it from honest conviction: The typical middle-class curriculum offered in most high schools does not meet their needs to get a job and earn a living in the "society" they must enter when they graduate. That, however, is not the case with most college students. They are there generally by choice (theirs or their parents'), and presumably will go to work in middle-class society or on to further graduate study when they leave school.

I have tried to meet the need for relevance by designing lectures and examinations in a manner which I feel (and good teaching techniques have proven) students will learn. To do any less would be an abdication of the teacher's responsibility to the students. Despite this, the examinations never seem to satisfy those people who still cry for relevance. Using student input, I have experimented with different types of examinations, but two distinct, curious phenomena have occurred.

In one case, I offered to let the students write some of the examination questions they felt would be "relevant" to be added to the exam. Two students in a class of 48 volunteered two such questions—both damn good ones. However, in the final exam, neither of the students—nor any of the others—answered these questions, because they were, in the students' own words later, "too hard" and they "didn't want to take a chance on getting a low grade." This is the classic "cop-out," for I have found that students who study hard and learn the subject matter relish answering thought questions and take great delight in writing about their newly acquired knowledge.

"THOUGHT" QUESTIONS

I also give five or six "thought" questions in each exam which I offer to correct, cri-

tique, and mail to students as separate pieces—with no points for answers. I have received only one or two answers to such questions. This may only mean that the exams I prepare are too easy (a criticism I have received regularly), although they are based on the text and the lectures and require a good bit of studying.

On other occasions, I have suggested that perhaps the curriculum for college should be amended to allow students to choose all their own courses, attend classes at will, have class meetings at unspecified times and in unspecified places (subject to the will of the group), and, in general, to run classes and the school the way they wanted. All agree they would "learn" more in this relevant environment. However, when I ask how many would go to a school like this which gave no credit for course work, very few respond. Evidently they are reluctant to accept such an avant-garde idea, even though they feel they would get more out of the experience.

The point I am trying to make is that, although there needs to be some input from students into the curriculum and examination process (in fact, into the whole academic process), I don't suggest, to quote one author, that we "turn the asylum over to the inmates." Course offerings are developed and taught by persons who are supposed to have more knowledge than the students about a particular discipline and can explain the many facets of it. True, some of us don't keep up to date as we should; but our charge is broad and generally requires us to help the students understand the past accomplishments and mistakes made by man so the student needn't "re-invent the wheel."

RELEVANCY NOT ESSENTIAL

In becoming an educated person, everything one is exposed to need not be relevant. The broader and deeper the experience, the better the learning. In this manner the academic institutions could turn out persons who would be candidates for making good judgments in the society they are about to enter and help run. They might even go on to become the wise men we need so badly.

Unfortunately, those students I have heard cry the loudest for relevance are also those who claim to know all the answers. Their biggest problem (and it is our problem as teachers to help them overcome this) is that they haven't learned properly to formulate the questions.

NUCLEAR WEAPONRY, 1971

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. FRASER. Mr. Speaker, the Wednesday, May 12 Christian Science Monitor carries an editorial "Weaponry, 1971." It addresses itself to the strategic arms balance between the United States and the U.S.S.R. It gives a balanced view of a most important matter and I commend it to my colleagues. The final three paragraphs are especially worthy of our attention:

The most reasonable conclusion is that neither Russia nor the United States has any real chance of getting a "first strike" and it is highly doubtful that either is really trying. Each will inevitably suspect the other and thus keep up the race in technology to the point where there is some cutoff in the nuclear arms race.

As we read the existing and publicly available evidence it seems that the United States is probably holding its technological

advantage over Russia, perhaps even widening it.

If true, it would be to Russia's advantage to agree to a cutoff date in the SALT talks. We can only watch with fascination to see what the Russians do agree to. It will be the best possible measure of which side is leading in the nuclear race.

The editorial follows:

WEAPONRY, 1971

Every year at about the same season, usually just when the cherry blossoms are opening along the Potomac, a new round is opened in the old argument over how many weapons of what kind the United States needs in view of whatever its arch rival in power, the Soviet Union, is doing or is believed, by some, to be doing.

The 1971 debate is a rerun of the 1970 round, with a difference.

The 1970 round was opened by Secretary of Defense Melvin Laird on April 29 with the assertion that the Soviets were engaged in a massive expansion of their nuclear striking force. He suggested the distressing possibility that they were seriously seeking a "first strike capability" against the United States.

This was based on a presumed continuing deployment of Russian SS-9 intercontinental missiles. These are the world's largest, carrying a nuclear warhead with an estimated power of 20 to 25 megatons. The heaviest megatonnage in the American arsenal is one to two, on a Minuteman 2.

Then Russians were then said to be deploying SS-9 missiles at the rate of 50 to 60 per year whereas the United States had at that time stabilized its long range missile force and was deploying nothing new at all.

The 1970 round ended with the admission that instead of continuing SS-9 deployment, there had been none since August of 1969. Thus the 1970 case was built on a false assumption about what the Russians were in fact doing.

The 1971 round was opened by Sen. Henry M. Jackson (D) of Washington on March 7 with the disclosure that the Russians were digging some new holes in the ground which suggested that they were engaging in deploying "an advanced generation" of missiles; i.e., something beyond the huge SS-9.

This was later confirmed from the Pentagon with some details.

The essential published facts are that the Russians have dug 40 new holes of the same size previously used for the SS-9 type missiles, but with different surroundings.

These diggings are detected by aerial photography from orbiting American reconnaissance satellites. These satellites are constantly photographing everything of military interest going on in the Soviet Union. (The U.S.S.R. does the same.)

There are conflicting theories about the purpose of these holes in the ground. At one end of the spectrum is Senator Jackson and the theory of an "advanced generation" of Russian missiles. At the other end is the theory that the Russians are trying to protect what they have by getting ready to move 40 of their existing SS-9 missiles from old-style silos into new stronger and harder ones with a better radar detection system.

The Russians do have reason to think about the validity of their own deterrent. While they were not deploying any new SS-9 missiles the United States was fitting new warheads to its Minuteman missiles. These new heads contain three or more independently targetable (MIRV) nuclear devices. Also, the Navy began deploying its new Poseidon missiles, also fitted with MIRV heads.

Thus, while the Russians were deploying nothing, the United States were multiplying their nuclear striking power by a factor of roughly three times.

It would not be surprising, therefore, if the Russians were putting their best effort not into a "new generation," but rather into trying to save what they have.

Personalities are getting involved, as they always do in such matters. It is now disclosed that behind Senator Jackson's opening move this year is John S. Foster Jr., Director of Research and Engineering, Department of Defense. A public counter blow has been aimed at him directly by an organization called the Federation of American Scientists.

According to the federation, Mr. Foster is guilty of "a classic numbers game featuring selective disclosure, questionable assumptions, exaggeratedly precise estimates, misleading language and alarmist non sequitur conclusions." Prof. George W. Rathjens who helped draft this unflattering opinion of Mr. Foster's work adds that the SS-9, instead of being the superweapon Pentagon spokesmen brandish before anxious congressional eyes, is actually an obsolete type which the United States could have had long ago, but rejected in favor of the more efficient, and less costly, Minuteman. The huge megatonnage of the SS-9 is dismissed by the critics of Mr. Foster "overkill."

At State Department, Treasury, Bureau of the Budget, and the White House are people who prefer not to talk out in public, but are delighted to have the Federation of Scientists speak out on what is a highly controversial subject. The Bureau of the Budget, for example, wants to save all the money it safely can, but is in a poor position to argue in public against Pentagon assertions about the latest form of the "Russian menace." The federation acts, therefore, as the public front for the opposition inside the administration to a new and bigger weapons program.

We who are on the outside and do not possess the top-secret information available to the President and his key advisers cannot be sure which view is correct, the alarms of Senator Jackson and Mr. Foster, or the reassurances of their critics.

But there are helpful opinions from authoritative sources. The Institute of Strategic Studies, in London, is widely regarded as the most responsible public source for defense information and analysis. In its current annual "Strategic Survey" it explores a possible Soviet try at a "first strike capability" and observes:

"Certain aspects of the Soviet program were certainly calculated to generate such fears, but the evidence which they provided was never better than ambiguous and was certainly not stronger than that which the Soviet Union might itself have adduced, over-suspiciously, from American strategic programs and statements in the past."

And as for anyone ever getting a "first strike capability"; to have one would mean the ability to knock out every missile in the arsenal of the other side. If even one escaped, the "first strike" would be meaningless because, to quote former presidential adviser McGeorge Bundy: "a decision that would bring even one hydrogen bomb on one city of one's own country would be recognized in advance as a catastrophic blunder."

The most reasonable conclusion is that neither Russia nor the United States has any real chance of getting a "first strike" and it is highly doubtful that either is really trying. Each will inevitably suspect the other and thus keep up the race in technology to the point where there is some cutoff in the nuclear arm race.

As we read the existing and publicly available evidence it seems that the United States is probably holding its technological advantage over Russia, perhaps even widening it.

If true, it would be to Russia's advantage to agree to a cutoff date in the SALT talks. We can only watch with fascination to see

what the Russians do agree to. It will be the best possible measure of which side is leading in the nuclear race.

"EXCESS" LANDS

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. KASTENMEIER. Mr. Speaker, I would like to call to the attention of my colleagues an article by Peter Barnes, appearing in the May 8, 1971, New Republic, which discusses the "excess" lands controversy. Today, in violation of the 1902 Reclamation Act which sets a legal limit of 160 acres upon which farmers can draw water from Federal irrigation projects, giant corporations and large landowners are receiving federally subsidized water to which they are not legally entitled on millions of acres of land. The subsidy is estimated to be between \$600 to \$2,000 an acre. Mr. Barnes points out that not only do these land barons enjoy the water subsidy, they benefit further from a labor subsidy by utilizing low-cost labor from Mexico and, in addition, they receive the Federal agricultural subsidy. One such firm that Mr. Barnes mentions, the Irvine Co., receives millions of dollars in water subsidies on its 10,000 acres in Orange County, Calif., as well as receiving \$151,084 in farm subsidies in 1970.

Mr. Speaker, the people of Wisconsin as well as citizens from other States not benefiting from the Federal reclamation program, nonetheless, are paying taxes and have paid taxes to build dams, reservoirs, conduits, and irrigation systems in the West. They have paid these taxes against their own economic interests because they believed it was in the national interest. I believe the American people will agree with me that, if Federal money is used to irrigate lands for farming, the beneficiaries of this Government policy should be family-sized farmers and not owners of immense agricultural kingdoms. The tax money we contribute for reclamation projects should be used to foster and maintain an agrarian democracy and not huge agrarian estates.

Mr. Speaker, earlier this year, I introduced H.R. 5236 which formally proposes Government purchase of "excess" lands at a preproject market price and the resale or lease of such lands at a post-project market price. The windfall profits the Government would obtain would go into an "education, conservation, and economic opportunity fund." H.R. 5236 proposes that 70 percent of these new revenues would be earmarked as grants to public education. Some 10 percent of the net revenues would be transferred to the land and water conservation fund. The remaining 20 percent would be made available upon specific appropriation by Congress for the development of public facilities servicing project areas, for advancing economic opportunities of veterans and persons living in substandard conditions, for the development of healthful environments and communities needing open spaces, and for such

other environmental and ecological benefits as Congress may authorize. With the enactment of this legislation, the use of these excess lands will be turned away from private speculation and monopoly control toward the truly public purposes of education, conservation, and economic opportunity.

Mr. Speaker, the Peter Barnes article follows:

WATER, WATER FOR THE WEALTHY

Not far to the east of the summer White House at San Clemente lies one of the most miraculous deserts in America, California's Imperial Valley. It's large (about 1 1/4 times the size of Rhode Island), hot (temperatures of 120 are not uncommon in midsummer), dry (total annual rainfall is barely three inches) and flat. It is also one of the richest agricultural areas in the world, producing \$250 million annually of cotton, sugar beets, lettuce, alfalfa, and other crops. What makes the Imperial Valley rich is water from the Colorado River, water brought through a network of dams and canals, built by the federal government in the 1930s and '40s. Thanks to the imported water, what was once barren is now a grower's paradise, producing two or three crops a year.

This spectacular reclamation of desert wastelands would be an unblemished tribute to American enterprise were it not for an important fact: the beneficiaries are a small group of wealthy growers who hold most of their land illegally. Back in 1902, when Congress passed the Reclamation Act, it sought to assure that the benefits of federal irrigation projects would accrue to small homesteaders, not to land speculators or the holders of vast estates. The law stated unequivocally that landholders could receive federal water only for farms of 160 acres or less, and that in order to receive this water they had to live on, or very near, their land. In 1926 Congress strengthened the 1902 Act by providing that landowners owning more than 160 acres had to sell their excess land, at pre-irrigation prices, before they could receive federal water.

The railroads, land speculators and big ranchers have always opposed the Reclamation Act's antimonopoly provisions, have never been able to persuade Congress to repeal them, and they've successfully got around them. Techniques of evasion have varied from region to region. Imperial Valley growers did it by persuading Herbert Hoover's Secretary of the Interior, Ray Lyman Wilbur, to sign a letter in 1933—days before the Roosevelt administration took over—expressing his opinion that the Imperial Valley was exempt from the 160-acre limitation. Wilbur's last-minute ruling was elicited by one of his aides through a typical special-interest ploy: the aide, who shortly thereafter became a paid consultant to Imperial Valley growers, convinced Wilbur to sign the letter without consulting the Interior Department's chief legal officer, who believed in enforcing the 160-acre limitation.

Wilbur's letter was merely an informal opinion, but it achieved the desired effect. Using the letter as its rationale, the Imperial Irrigation District (which distributes water and electric power in the Valley) for three decades bestowed its bounty upon landowners of all sizes and shapes, never forcing anyone to sell his excess holdings. Today more than half the irrigated acreage in the Imperial Valley is held by owners of more than 160 acres, and two-thirds of it by absentees. Some of the holdings are as large as 10,000 acres; several belong to such agribusiness giants as Purex, United Fruit and the Irvine Land Company.

This concentration of rich, federally irri-

gated lands in the hands of a relatively few large landowners not only flies in the face of congressional enactments; it opens these landowners' bank accounts to vast unearned windfalls, all courtesy of the federal government and the taxpayer. The multiplicity of subsidies that accrue to the Valley's landowners is dazzling. First is the water subsidy. Hoover Dam, completed in 1935, cost \$175 million; the All-American Canal, which carries water from the Colorado to the Valley, cost \$30 million. Part of this mammoth investment comes out of the general treasury; the remainder is almost entirely repaid by electric power consumers in Los Angeles and other southern California cities.

Second is the labor subsidy. Between 1952 and 1964, millions of *braceros* toiled in the Imperial Valley at wages lower than any others paid in America. Today thousands of Mexicans stream across the border each morning with blue or pink permit cards, compliments of the US Labor Department. Their presence impedes the efforts to unionize farmworkers and keeps field wages below two dollars an hour.

Then there's the agricultural subsidy. The same federal government that spends millions to make the Imperial Valley fertile also pays millions to landowners not to grow crops. Thus: 500 large growers receive \$12 million annually in farm subsidies, while 10,000 landless residents of the Valley must eke out an existence on welfare payments totaling less than \$8 million.

By far the largest windfall is in the form of land appreciation. Irrigated land in the Imperial Valley is worth, conservatively, \$700 an acre more than the same land would be worth without water. A landowner with 2000 acres thus gets a \$1.4-million bonanza from the federal government, merely because his land is in the right place. The total land appreciation in the Imperial Valley attributable to the taxpayers' munificence exceeds a quarter of a billion dollars.

In short, it's quite a bubble: landowners in a once-desolate dust bowl reaping millions at the public's expense on acreage they never should have been allowed to hold in the first place. But it has been a precarious bubble, resting on the thin edge of non-enforcement of the Reclamation Act, and for a few brief years it appeared that the bubble might burst. In 1964 Interior Secretary Stewart Udall declared that Wilbur's letter was a mistake, and that the Interior Department would enforce the 160-acre limitation in the Imperial Valley. The large landowners were stunned. Political pressures were brought, but to no avail at the time. So the Imperial Irrigation District stalled; it refused to require growers to sell their excess land. The Interior Department could have cut off the district's spigot; it chose instead to seek a court order compelling the district to apply the law. The case dragged on for years. Last January a Nixon-appointed federal district judge in San Diego ruled in favor of the large landowners; he upheld Wilbur's letter and rejected Udall's reversal. At that point the dispute became political: would the Nixon administration appeal the district judge's decision—a decision involving a vital principle of agrarian democracy, million of the taxpayers' dollars, and the important question of whether executive department heads can blithely evade congressional policy? Or would the Administration, as the large landowners urged, allow the lower court decision to stand unchallenged?

Politically the landowners now had some powerfully placed friends: Governor Ronald Reagan, who strongly opposes acreage limit enforcement; Democratic Senator John V. Tunney, who supported the landowners' interests when he was a congressman from the Imperial Valley and continues to do so as a

senator; Rep. Victor Veysey, the Republican who succeeded Tunney in the House; and not least of all, Richard M. Nixon, who assured Imperial Valley growers in 1949 when he ran for the Senate against Helen Gahagan Douglas that he would fight against acreage limitation.

Arrayed against this constellation of power, the small farmers and landless residents of the Imperial Valley—not to mention the hardpressed federal taxpayers—didn't have much of a chance. The California AFL-CIO, the National Farmers Union and a few other organizations urged appeal of the district court decision, but these are not the voices Nixon listens to. When it became apparent that the Administration would permit the lower court judgment to stand, 123 landless persons in the Valley, mostly Mexican-American farmworkers, sought to carry on the appeal themselves. The same judge who originally ruled in favor of the landowners turned them down on the grounds that because they were too poor to own land, they had no interest in the case. Finally, the 60-day period for filing an appeal expired.

Who in the Administration made the decision to preserve the Imperial Valley bubble, and why? Interior Department Solicitor Mitchell Melich says his department—with the approval of Secretary Rogers Morton—recommended that no appeal be taken because "we agree with the Wilbur letter." Anyway, the Wilbur letter had been sanctified by 30 years of administrative practice; it was unfair for Udall to change the ground rules so late in the game, even if the ground rules were illegal (which Melich insisted they were not). Over in the Justice Department, which apparently made the final decision not to appeal, officials have been more evasive. Solicitor General Erwin Griswold took responsibility for the decision, but refused to talk to the press about it. Other Justice Department lawyers involved in the case also refused to talk; they referred all inquiries to a public information spokesman, who of course had nothing to say.

The Administration's action—or rather conscious inaction—means that subsidized water, subsidized labor and subsidized crops in the Imperial Valley will continue to be monopolized by a few wealthy landowners. Moreover, the market value of their land will rise now that the threat of acreage limitation has been lifted, and small farmers, who have a hard enough time keeping up with the leviathans, will be squeezed even more. Had the growers been required to sell their land in excess of 160 acres at pre-water prices, the appreciation brought about by federal expenditures might have accrued to some of the less affluent residents of the Valley, and to the public itself.

Nixon's inaction will also cause million-dollar ripples outside the Imperial Valley. The San Diego decision against the 160-acre limitation now stands as a legal precedent; growers and speculators in other reclamation areas will use it to protect what they've already accumulated and to get their hands on larger holdings of both land and water. The Irvine Land Company, for example, which holds 10,000 acres in the Imperial Valley, owns 130 square miles in Orange County, an area that also relies on imported Colorado river water. Enforcement of the 160-acre limitation or the residency requirement would instantly wipe out the speculative gains of the Irvine Company, the Southern Pacific Railroad, Standard Oil of California, Tenneco and dozens of other giant landholders in the West. The Justice Department says that its decision not to pursue the Imperial Valley appeal has no bearing on these other vast holdings. Clearly, though, it does. It means that none of these enormous land profiteers need worry as long as Richard Nixon is in the White House.

CONSUMERISM—WHAT IT MEANS
TODAY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. DINGELL. Mr. Speaker, pursuant to permission granted I insert into the RECORD an excellent speech given by a distinguished scholar and economist, Father Robert J. McEwen, S.J., entitled "Consumerism—What It Means Today."

This fine address was given at the Seventh Annual International Management Conference on Franchising by Father McEwen, distinguished professor of economics and longtime leader in the consumer movement.

This excellent comment by an outstanding American merits careful consideration:

CONSUMERISM—WHAT IT MEANS TODAY

(By Robert J. McEwen, S.J., professor of economics at Boston College, Chestnut Hill, Mass.)

"Consumerism—Its Two Faces" might well be my title today. I intend to consider how consumerism looks to the businessman and how he reacts to it. At the end, I shall tell you how it looks from the inside—from one who believes he has developed a coherent philosophy of consumer action. We shall also suggest to you some implications of consumerism for your own business lives.

Let us start with the proposition that business has to have a bogeyman. If it isn't Franklin Roosevelt or Harry Truman then it will have to be Ralph Nader and the "consumerists"—for after all Lyndon Johnson and Richard Nixon could not plausibly be sold as anti-business. Thus, consumerism was invented about five years ago to tag the new challenges to business associated with the growth of organized citizen consumer groups and the spread of official consumer protection agencies in government.

Originally, in my view, it was a smear term and it is still mainly used only in business circles and the business press.

The consumer movement, or the rise of strong consumer protest groups, was a genuine surprise to most businessmen. In the nature of their jobs, background, education, social circles etc., their view was a good deal circumscribed. Many were genuinely high caliber individuals in their own personal lives and they could not readily conceive the depths to which human greed could drive some men in the exploitation of the public. The narrowness of their vision prevented them from seeing and understanding the forces that were operating on large segments of the consuming public. In a way, they were all victims of their mutual brainwashing and their speechwriters and public relations men. Changes in established business practices, unless dictated by management consultants, were just out of the question—particularly if suggested by consumers, or anyone who fell into the group that was supposed to be demolished by that favorite characterization "men who never had to meet a payroll".

The business reaction to consumerism has gone through several phases. At first, they dismissed the consumer challenges as not worthy of serious attention. Then when the consumer plea finally led to legislation at state and federal levels—which the usual business opposition could not prevent—and when consumer discontent broke out in boycotts and organized resistance to certain products and sellers, the business community went into a state of pained shock. How could

the public do this to them when they had served it so well! The lesson of some of the urban riots also shocked the complacent businessmen. Gradually, business began to organize its counterattacks. Some of them were ridiculous and were soon abandoned, such as the campaign to tell the housewife that "Food is a bargain", or the advertising campaign that tried to tell the public that the consumer people were leading us down the road to Russia! Now there seems to be a speech-making and advertising campaign by prominent businesses and business leaders to attack consumerism and equate it with treason to the American economic system "that made us so great".

For instance, Thomas R. Sheppard, Jr., publisher of Look magazine is making quite a career out of giving speeches roundly condemning the absurdity of consumerists and politicians who do the following awful things: propose nutrient labeling for foods, object to the advertising of nutritionally inferior breakfast cereals, advocate limitation or cutting down on the number of shapes and sizes of packages, require safety improvements in automobiles (such as seat belts) etc. Rep. Michel of Illinois put one of Mr. Sheppard's articles from Readers Digest into the Congressional Record of March 12. The title of the piece is: "We are going too far on Consumerism". Of course, it happens to be a little currying of favor with some of the biggest magazine advertisers in the country. And Mr. Sheppard would not mind at all if they thought Look magazine was a little more sympathetic to their problems with consumerists than were the publishers of other magazines.

Another important voice of business was featured in the New York Times last Sunday. James M. Roche, of General Motors, calls on business leaders to "stand up and be counted. It is up to us to reaffirm our belief in free enterprise." That conclusion was preceded by a summary of the criticisms consumerists make about business and then this remarkable interpretation by Mr. Roche of the consumer position. He writes:

"This delusion—that the consumer cannot trust his own free choice—strikes at the very heart of our free competitive system. The system is founded on the conviction that in the long run the consumer is the best judge of his own welfare. The entire success of free enterprise can be traced to the vitality it gains by competitive striving to satisfy the discriminating customer. To destroy the concept of consumer supremacy is to destroy free enterprise. If the consumer can be convinced that he really does not know what is good for him—and this is what the critics try to do—then freedom leaves free enterprise."

This misses the point so widely that I find it hard to believe that Mr. Roche could really mean it the way he wrote it. We do not say that the consumer cannot trust his own free choice—our whole drive has been in the direction of making his choice truly free. Most of the consumer demands fall into two categories: Information, on which to make a truly free and informed choice; and Freedom From Restraints and Compulsions that limit the range of choices open to the consumer. That is why you have had the many laws recently requiring truth in lending, packaging, investing, etc. Business really looks bad in resisting Full Disclosure!!!

THE PROBLEM OF CONSUMER COMPLAINTS

Let me give you an example of a current business reaction to consumerism that I consider particularly dangerous and ill-advised. The Better Business Bureaus have recently consolidated their efforts and set up a joint headquarters in Washington—in order to be closer to the scene of political action and influence.

Meanwhile they have embarked on a nationwide campaign to channel all possible consumer complaints through themselves in-

stead of through official government consumer agencies. Of course, if they succeed, there will be no public record anywhere of what consumers are complaining about.

It is no coincidence, in my eyes, that this move comes just after the Federal Trade Commission has set up in six metropolitan areas a system of Consumer Protection Committees which are keeping a computerized record of all consumer complaints registered in their geographical areas with official government agencies. Each month there is available a computer print-out of consumer cases with information on the name of the company, the complainant's initials, the nature of the case, its disposition or referral as well as summaries identifying the top 25 problem types. This will be an invaluable aid to quick action to stop a consumer abuse before it can victimize a whole state or region.

But radio and TV programs sponsored or "assisted and prepared" by the BBB are being presented as consumer information—to tell consumers about their rights, privileges and responsibilities—and the whole burden of their message is that the consumer does not really have much right of complaint, or if he does he should bring it to the local BBB. No encouragement is made to bring a complaint to any official government body set up to deal with business complaints.

I see this as a bare-faced effort to sweep all consumer complaints under the BBB rug, where it will keep them quite secret from public attention and safe from prying legislative or consumerist eyes. This tactic will not work for several reasons: 1) the public is not fooled about the real efficacy of bringing complaints to a Better Business Bureau—against their big dues-paying members they will never take decisive stands, and against the real fly-by-night operators the BBB is helpless because they are not members and could not care less about BBB displeasure; 2) consumer groups and the government may soon move to meet this tactic. (Just last week in Washington with the Legislative Aid to a Senator we discussed the idea of preparing legislation that would require any group handling or receiving consumer complaints to keep accurate records of the same and to record them with the Federal Trade Commission or other official agency.)

FRANCHISING

The franchiser, the consumer, and the spirit of America.

In this latter part of the twentieth century the great economic and social virtue of the franchising system has been the promise held out to the individual operator to be able to become a viable economic unit and still retain a certain measure of individuality and individual responsibility. In a day and age when the individual seems to count for less and less, when those who went to work for the bigger and safer economic entities soon realized how much they paid in the currency of their spirit for the safety of the big organization, the individual franchise member did seem to hold a uniquely promising position.

There is an appalling need in this country for a person-to-person, individual-to-individual relationship between the buyer and seller of goods and services. Part, maybe even a major part, of the force of consumerism in this country and throughout the world is a rebellion against the faceless nature of the selling unit. It is typified by the outraged consumer who puts a coin into a vending machine and gets nothing back. He has nothing but a dumb monster on which to vent his rage. And he frequently does give it a swift kick.

Gentlemen, I mean to emphasize two points: 1) the spirit of America has been badly damaged by a faceless impersonal corporate set-up that not only antagonizes its consumer, but demoralizes its working

member; and 2) a franchise system had within itself the promise of avoiding the evils of bigness and supporting the true spirit of enterprise, at once individual, personal, and responsible. It could also be an enterprise that was willing to treat customers on the same basis. Thus there was hope that the franchising system would present a vast improvement in the climate of buyer-seller relationships and in the general social climate of this country. I for one believe that the country has deteriorated in direct proportion to the extent to which individual small businessmen have been wiped from the scene.

However, this fine idyllic picture has been marred in practice by some of the franchiser companies who betrayed all the worst features of capitalistic bigness that have so demoralized the American public. In addition to cheating, misrepresenting, deceiving, and abusing their franchisees, some of their practices have made the consumer also their victim at one level removed.

As a result, Federal legislation is just around the corner according to a very recent item in one of the best Washington advice letters for businessmen. And the reason given is that complaints in this field are widespread. Companies will have to do a lot of "truth-disclosures" on their financial assets and arrangements, the precise assistance they promise, and terms and conditions limiting the franchise. I suspect some of the limiting conditions currently in use will be challenged on anti-trust grounds but I hope there will be a balancing of effects here so that franchise conditions and terms which really are for the benefit of the ultimate consumer and the protection of the reputation of the franchiser and his other outlets will not also be attacked.

CONSUMERISM—REAL MEANING

The true meaning of consumerism: In reality, consumerism is a revolution of people against a business system that has lost its soul, lost the vision of its real purpose which was to serve the needs and desires of people, lost its sense of justice and fair play and permitted unresolved consumer complaints to mount to the skies. It is also a revolution against a business clique that corrupted the political system, the courts and the information media to its own ends—against the little consumer, against the little business man and against the unorganized worker.

In a real sense, its promises outran its performance. Advertising sold a shoddy and false sense of values, manipulated the consumer, freely indulged in lies and half-truths, insulted the intelligence of an increasingly alert buyer and, in the process, brought itself and its master into increasing disrepute. In vast numbers, the public—particularly the young and the discerning—began saying: "If this is what the American business system means, then I want none of it."

Like all revolutions, the consumer revolt did not start yesterday or last year. It was a long time in the making. It may have burst out rather suddenly in public view but it had been taking shape in the minds and hearts of people for a very long time. Ralph Nader, as good as he is, and the rest of us who preceded him for a few years, would never have been able to strike a responsive chord in the public had not a sense of despair and frustration with business practices been smoldering beneath the surface for some time. We were only the catalysts who brought these forces together and into the open. If business had had eyes to see, it too would have known what was happening.

How badly the business community miscalculated Ralph Nader and the effect of consumerism is shockingly revealed by a comparison of the still continuing verbal attack from some business quarters with the results

of the latest Harris poll published in Boston newspapers last Saturday. I am now quoting the Boston Globe of April 10, 1971: on the question of whether the net effect of Nader's efforts resulted in more good than harm, 53% of the people said Good, 9% said Harm, 38% said Not Sure. On the positive statement that "It's good to have critics like Nader to keep industry on its toes" 69% agreed, only 3% disagreed, with 28% not sure. Even if I were to split the 28% who were not sure equally between those who agreed with Nader and those who disagreed (a remarkably conservative procedure) I would come up with 83% of the American people who thought it a good thing to have some Ralph Naders around. If business can look at that figure—and indeed at the whole Harris poll—and remain complacent, then truly our economic system is in trouble.

In another sense, the consumer revolution is a necessary result of the abdication of his real function by most of the retailing industry. The retailer, in theory, should be the experienced advisor and guide to the customer. He should be the mediator between manufacturer and consumer, protecting the consumer's interest as well as the producer's. It is terribly inefficient, time-consuming and difficult for the consumer to have to be his own expert on every product and service he buys. As a matter of fact, it is probably a physical impossibility. But that is what has been forced on consumers by the failure of retailers to perform their true function in the marketing chain. When the customer found he could get from the average retailer neither adequate, truthful information nor straight and disinterested advice, he had no choice but to turn to himself and organized groups of his fellow consumers—some of whom would be publishing information about products, while others would be able to give him help and advice about his legal rights and remedies in disputes with sellers. It was truly organization in self-defense.

This is the meaning of the consumer revolution as I see it. Many businesses today are frantically trying to meet this challenge by setting up consumer departments or advisers. Only those will succeed who meet two conditions: (1) they really understand the nature of the consumer revolt; and (2) they do not try to fool the consumer by window dressing and empty promises. I hope all of you can succeed.

PRAISE FOR JACKSON, MISS., VA HOSPITAL

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. MONTGOMERY. Mr. Speaker, I recently received a letter from one of my constituents concerning the excellent service he received at the VA hospital in Jackson, Miss. I feel the letter is self-explanatory and I commend it to my colleagues:

COLLINSVILLE, MISS.,
May 3, 1971.

DIRECTOR,
Veterans Administrative Center,
Jackson, Miss.

DEAR SIR: I am a 25 year career Navy veteran and today, May 3, 1971, was my first experience with a Veterans Hospital.

I had an 8:20 a.m. appointment and I was seen at 8:40 a.m. by Doctor Galloyan(sp). After an interview and examination I was sent to the Laboratory for a blood test and urinalysis, then to the Medical Illustrator

and then to the X-ray Department. Due to the volume of people at X-ray there was an hour delay. I was directed back to the Admission Desk, to Travel Claims, to Agent Cashier where I was promptly paid my travel (round trip) and then enjoyed a very good meal in the cafeteria at 11:30 a.m.

I have given you a graphic detail of my schedule to emphasize my surprise and pleasure at the prompt, professional, courteous and friendly service I received. I cannot praise your staff enough for their efficiency.

Due to the recent adverse publicity given to the Veterans Hospitals throughout the United States . . . I will admit I went there today with a negative attitude and somewhat biased due to the recent publicity. The situation I found there today has prompted the writing of this letter.

I wish you would express my appreciation to your excellent staff.

Due to Congressman G. V. Montgomery's interest and support for the VA Hospitals throughout the United States, I am forwarding him a copy of this letter.

Respectfully yours,
DORRIS KEY BRANNING,
PNC, USN-F6 (Retired).

IMPOUNDMENT OF FUNDS

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 11, 1971

Mr. ZABLOCKI. Mr. Speaker, on many recent occasions I have spoken out against President Nixon's policy of impounding funds appropriated by Congress. I believe that the principles involved in this question are so important that I have introduced House Joint Resolution 605 to instruct the President to release these appropriated funds. Just yesterday, Mr. Speaker, I was confronted with yet another instance of the Administration's blatant refusal to accept the clear mandates of Congress.

Representatives of the Wisconsin Regional Medical Program Inc.—WRMP—conferred with me about the difficulties they are encountering as a result of this impoundment policy. This organization was formed to improve patient care by applying the knowledge gained through scientific research to the patient with the least delay possible. While not solely supported by Federal funds, the organization relies heavily on these funds—funds already appropriated by Congress for use by the Department of Health, Education, and Welfare appropriations. However, as a result of the President's policy of withholding appropriated moneys—this time under the guise of a carryover of funds—severe financial restrictions have been placed on the regional medical program by HEW.

Mr. Speaker, regional medical programs were established by an act of the 89th Congress to combat strokes, cancer, heart, kidney, and other related diseases. This is an extremely worthwhile undertaking which cannot be delayed. It affects the lives of every American. Drastic financial setbacks of this kind jeopardize the delivery of improved health care for our citizens. How can the administration justify this action?

If work of this kind is to be effective in improving patient care, it must be carried out without continually fluctuating Federal financing. The administration should not play politics with the health care of the American people by expressing deep concern while at the same time crippling Federal programs designed to provide better health care by reductions in funding.

Further, Mr. Speaker, action such as this again dramatically illustrates the administration's determination to ignore the will of Congress. It is not only destructive of our constitutional separation of powers, it is also detrimental to our established governmental procedures and social goals. It provides yet another strong reason for Congress to take immediate action on measures such as House Joint Resolution 605, requiring the President to release vital impounded funds, and to scrutinize with particular care future administration action in this area.

I am submitting for inclusion in the RECORD a resolution adopted by the Wisconsin regional medical program with regard to the impoundment of funds and an article on the aims of the Wisconsin Regional Medical Program, Inc.:

The Board of Directors of the Wisconsin Regional Medical Program have been directly involved in the recent financial restrictions placed upon the Regional Medical Programs by the United States Department of Health, Education and Welfare.

Whereas, Regional Medical Programs were established through an act of Congress (PL 89-239) to "combat heart disease, stroke and cancer" and later amended to include "kidney disease and other related diseases";

Whereas, after five short years of organization, planning and implementing health programs for the documented need for improvement in the patient care health delivery system of these United States;

Whereas, through coordination of professional and paramedical efforts and the cooperation established by the Wisconsin Regional Medical Program between and among health facilities, personnel, associations, Comprehensive Health Planning agencies, business, industry, labor as well as the public sector on a regional basis which previously existed only on a very limited basis;

Whereas, because of drastic financial setbacks which have continually occurred jeopardizing the continuation and consequent need for an improved health care delivery system which is in complete contradiction to the original enactment of the law by Congress and therefore be it;

Resolved, That the Wisconsin Regional Medical Program be given the opportunity to carry out its functions for the improvement of patient care in the Wisconsin Region without the constant fluctuating financial restraints placed upon it by the United States Department of Health, Education and Welfare;

Resolved, That the Regional Medical Programs Service be given the funds allocated to it by the Congress without unreasonable restrictions.

CLOSING THE GAP BETWEEN SCIENCE AND SERVICE—WRMP AIMS TO IMPROVE PATIENT CARE (By John S. Hirschboeck, M.D., WRMP Program Coordinator and Peter A. Kirsch, Director, Public Information, WRMP)

The Wisconsin Regional Medical Program, Inc., (WRMP) was organized in 1966 to shorten the time lag between scientific discovery and its application in service to pa-

tients. The application of knowledge gained through research for the good of the patient needed to be emphasized. Thus, the reason for launching the WRMP was, "... the improvement of patient care in the Wisconsin region through collaboration among hospitals, medical and nursing schools, public and private health agencies, professional organizations, industry, labor and business in the area of heart disease, stroke, cancer and related diseases."

When WRMP was first organized, the presidents of the two universities in Wisconsin, the chairman of the board of a large insurance firm, and the coordinator of WRMP, established a policy making committee. Because of the growth in programs and interest within the Wisconsin Region, this committee, the Regional Advisory Committee (RAC), has grown to 43 volunteer members in order to have broad representation of those concerned. Reporting to the RAC are more than 100 volunteer members serving on various committees and subcommittees representing local and state government, American Cancer Society, medical schools, Wisconsin Heart Association, Wisconsin State Medical Society, nurses, dentists, civic and business organizations, and others.

In a region the size and complexity of Wisconsin, the involvement of representatives of the affected health professions, organizations and institutions requires a great deal of cooperation. WRMP does not duplicate other health activities in a given region. Emphasis is placed on self-assessment and maximum utilization of regional health resources through collaboration to bring about organized activity without duplication.

Dr. John S. Hirschboeck, WRMP program coordinator, is most insistent on WRMP staff working on a collaborative basis with all medical and paramedical personnel in the Wisconsin Region, whenever and wherever possible. For example, it is for this reason that WRMP works and plans closely with Comprehensive Planning to avoid duplication of services and projects wherever possible and to assure the greatest amount of effectiveness and efficiency from projects. One way this collaboration is achieved is through joint committee memberships of volunteers and staff.

It is through collaborative efforts such as this that people in the Wisconsin Region will benefit from increased health care at a minimum cost. It is through collaborative efforts such as this that patient care in Wisconsin will provide an opportunity and a challenge for all concerned.

NOT A GOVERNMENT PROGRAM

Although the WRMP is almost wholly supported by the federal government, it is operated on an autonomous, collaborative basis with no set governmental structure to follow. It initiates its own rules under which to operate. The volunteers establish the projects, their worthiness and guide it through its operation stage.

Several WRMP operational projects presently underway have already directly or indirectly aided Wisconsinites. Those living in the Wisconsin Region and suffering from heart disease, stroke, or cancer have been helped indirectly from the program's Cancer Chemotherapy Project, Pulmonary Thromboembolism Project, Uterine Cancer Project, or one of several others. One of the projects, Physician and Nurse Dial Access Programs and the Single Concept Film Program, have become one of the greatest medical educational aids in the region. Their value to physicians and nurses has gained nation-wide attention.

The "Dial Access Project" is in its third year of operation but in its second year of toll-free service to the practitioner. Subject matter has increased from 88 to almost 300 topics; covering a variety of subjects from *Blood and Lymphatics to Psychiatry*.

INSTANT LECTURES

Physicians and nurses interested in a particular subject and not having various medical journals and periodicals at their finger tips, can pick up the telephone, dial a certain number, and their call is placed directly to the librarian. Then, upon request, the caller will listen to a six minute lecture on the topic requested.

As one physician put it, "the service is of great value and should be continued. In fact, it should be expanded. It saves much time as it eliminates the need of researching journals to find out the latest advances. Time is too precious."

A physician from Park Falls, Wisconsin, gave his view of the project as a rural physician, "very seldom am I able to attend conferences or lectures regarding new techniques or methods used in medicine today. Consequently, Dial Access is one way for me to keep abreast of the advances in the field."

The Dial Access Library is available around the clock, 24 hours a day and has proved invaluable in a number of circumstances. For example, a Milwaukee hospital utilized the library to help train student nurses and update the education of "inactive" nurses.

EDUCATIONAL FILMS

A counterpart of WRMP's "Dial Access Library," is the "Single Concept Film Project." Used in 60 hospitals in Wisconsin last year, the project has far exceeded its initial expectations. Fifteen projectors and several film cartridges are available on a small rental basis. Hospitals use this service to help in the instruction of their staff, physicians, and nurses use it for keeping up-to-date on latest medical advances.

One of the many hospitals in Wisconsin which has utilized WRMP's "Single Concept Medical Film Program" to great advantage is Lakeland Hospital, Elkhorn, Wisconsin. Gene A. Kiefer, hospital administrator, said that he was amazed at the interest taken by physicians. "We have 22 doctors in our 137-bed hospital," Kiefer said. "Because of the amount of the load, I didn't think too many doctors would take an interest."

"We located the films and projector in a room near the lounge area," he continued. "Whenever there was a break between procedures, the doctors took a cup of coffee, went into the room and put a film cartridge into the projector."

Kiefer added that after each showing, the doctors discussed the film as a matter of conversation and reviewed it several times to make sure they understood particular portions of it. "That is one very important advantage of the program," Kiefer continued. "Because of the great response we received from this program, I am sure we will continue to use it to great advantage."

Presently, there are six teaching films of 10 to 15 minutes each. This will be expanded to 36 films available in units of six films per series. Proper notification will be made throughout the state when this expansion takes place.

KEEPING PHYSICIANS UP TO DATE

One of the first projects undertaken by WRMP was a physician education program. Its purpose was to help keep physicians abreast of medical advances so they could put this knowledge to work for the good of the patient.

Physician education is a necessity in Wisconsin, especially in northern areas where only two or three physicians are located in a given county. Two counties in Wisconsin are without physicians. Thousands of Wisconsinites are therefore dependent upon neighboring counties for medical assistance, putting an additional burden on physicians located in those areas. Because of this remoteness, physicians located in two-thirds of Wisconsin are handicapped in that there is little time for them to communicate with

others in their profession or to read medical journals to help them keep abreast of medical technologies. They must rely a great deal on professionals bringing new medical information to them.

Continuing education programs in the delivery of health care have received most of the attention in the WRMP. Programs geared to professional education are considered just as important as those which are public oriented.

On the other side of the fence, in the area of research, are such projects as the Uterine Cancer Project. The project, under the directorship of Drs. Richard F. Mattingly, chairman of the department of gynecology and obstetrics, Marquette School of Medicine, Inc., and Ben M. Peckham, chairman of the department of gynecology and obstetrics, University of Wisconsin Medical School, was established on an experimental basis to computerize the medical data of uterine cancer patients. It is hoped, that the treatment of uterine cancer patients can be improved through the use of the computer by allowing physicians in widely separated locations to exchange information and ideas.

COMPUTER EXAMINATION

Through the project, the facilities at Marquette School of Medicine, Inc., and the University of Wisconsin Medical Center have combined their capabilities on a collaborative basis. Others included in the system are Milwaukee County General Hospital, St. Mary's Hospital, Milwaukee, and the Marshfield Clinic and St. Joseph's Hospital, Marshfield.

Because of the accuracy of the computer, the information received from the patient is more accurate than histories taken by the physicians. The way the questions are asked is most important in trying to solve problems regarding the disease.

The patient, sitting at a computer, is given questions over a TV screen. She then has an option to select the proper answer with regard to her particular case. The directness of this technique and the storage capability of the computer allows an evaluation of the uterine cancer patient with a minimum of error.

After the interview between computer and patient, and the examining physician and patient, the questions and answers are permanently stored on a magnetic tape. These questions and answers provide, for the medical record, the details of the general physical examination. They include a detailed abdominal and pelvic examination. The history and the physical examination data are printed by the computer for inclusion in the medical record.

One of the many uses to which this system can be put is the physicians' accessibility to computerized dosimetry. The computerized measurement is accurate and easily calculated for immediate use by the physician.

The purpose of the project is to help present as well as future uterine cancer patients. As more data is compiled, the greater the accuracy factor.

TARGET DISEASES

This process of identification of needs and opportunities for solution requires a continuing analysis of the problems in delivering the best medical care possible to those within the Region suffering from one or more of these target diseases. It is on this basis that WRMP is able to translate these needs into operational projects. Hereto, among these various identified needs, are often found relationships, which, when perceived, offer even greater opportunities for solutions.

To date, WRMP has several operational projects, which in some way, will benefit the more than four million people in the Wisconsin Region. As mentioned before, some of the programs are physician and nurse oriented and educational in nature. Other projects are research oriented with the hope

of finding reasonable solutions to problems. Still others are practical projects with the aim of utilizing, more efficiently and effectively, the time and ability of the medically trained for the benefit of the patient.

Thus far, WRMP has received about \$2 million for the establishment of projects in Wisconsin. Some Regional Programs have received more or less money than Wisconsin. Allocations are not made according to population or size of region, rather, funding is based on individual merit of the programs.

The Program Coordinator of WRMP, John S. Hirschboeck, M.D., is not a novice at medical administration and budgeting. Before joining WRMP, he was the dean of the Marquette School of Medicine, Inc., for 17 years. He has organized WRMP into one of the strongest Regional Medical Programs in the nation.

BUDGETING PROBLEMS

Like Dr. Hirschboeck, many program coordinators and volunteers throughout the nation are going to have to work hard at budgeting their programs. With the cuts expected in federal spending, Regional Medical Programs will be somewhat limited in their activity and their impact on improved patient care in their regions will be minimized.

It was initially expected that more than \$200 million would be made available to Regional Medical Programs to help improve the care of medical patients in regions throughout the U.S. Recently, this amount dropped to \$124 million and again to \$74 million. It may go lower yet!

What it boils down to is the fact that the care of the patient must remain at the top of the priority list of Regional Medical Programs. In order for this goal to be achieved, the professional skill of individuals, coupled with the cooperation of community agencies on a collaborative basis, must be utilized to their fullest extent. Every available avenue must be examined and utilized to the greatest advantage.

It is not the only objective of WRMP to improve patient care in Wisconsin. Also, it seeks, through operational projects, the support of agencies, on a collaborative basis, to bring the achievements in medical science to the patient suffering from heart disease, stroke, cancer, or other related diseases.

HEALTH CRISIS

HON. JAMES V. STANTON
OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. JAMES V. STANTON. Mr. Speaker, a major cause of today's crisis in health care is the shortage of family doctors.

So great is this shortage that the family doctors our families have depended on these many years are likely to become an endangered species. The trend toward specialization in the medical profession is threatening to make the family doctor as scarce as the house call.

This crisis is vividly documented in an excellent series of articles by Fraser Kent, prize-winning health sciences reporter for the Plain Dealer in Cleveland. The problems he describes in Ohio affect every family in the country.

Kent estimates that "80 percent of all medical problems can be, and should be, taken care of by what used to be called 'general practitioners'—GPs." Today's family doctor, says Kent, is a specialist in

family practice with a special understanding of the complicated relationships between health and family structure and human behavior.

I call these three articles to the attention of my colleagues today because they explain so well the urgent need for approval of the amendment introduced by the gentleman from New York (Mr. ROONEY). His amendment would authorize \$25 million to train family doctors in hospitals and medical schools under the Family Practice of Medicine Act of 1970. This act, you will recall, was the victim of a Presidential pocket veto in the 91st Congress.

Today's vote on this amendment could prove to be a turning point in this health crisis.

The articles follow:

CRISIS OF THE GP: FAMILY MD'S WANT RANK OF SPECIALIST FOR THEIR SPECIALTY

(By Fraser Kent)

Having trouble finding a family doctor?

Or does the physician you now have keep you waiting weeks for an appointment? Do you then sit in his waiting room for a couple of hours? When you do get in, do you feel he's rushing you through?

If you answered the questions "Yes," it's not surprising. It would surprise your family doctor even less.

There just aren't enough family doctors to go around—and those who are in practice don't have enough hours in their days to see all those who need care.

It's estimated that 80% of all medical problems can be, and perhaps should be, taken care of by what used to be called "general practitioners"—GPs.

Most of the ills that flesh is heir to are not serious enough to justify going to the hospital or seeking a specialist's care. The head cold, the arthritis flare-up, the boil on Billy's bottom—we either take care of these ourselves (perhaps with a side trip to the corner drugstore) or we see the family doctor. If we have one. Or can find one.

The situation is bad throughout the country. As a matter of fact, Ohio doesn't have it as bad as some other states. And Cuyahoga County has more family doctors per person than some other parts of the state. Vinton County not only lacks family doctors—it has no doctor at all.

Some of the pressure is taken off by gynecologists and pediatricians, who serve as GPs for women and children. Internists also reduce the load, but a specialist in internal medicine (who may focus just on glands, the heart, or lungs) is not always involved in family health care.

This is the direction general practice is headed: total, comprehensive, continuing care of the family as a unit, both in sickness and in health, rather than episodic-disease and hospital-oriented medicine.

That is, if family practice survives. There are dramatic warnings from all sides that we may lose the GPs we have, without any replacements in sight.

The family doctor finds it hard to be heard in hospitals and universities, but his office is crowded with impatient patients. He sees the income estimates for surgeons, pathologists and radiologists and knows he is working just as hard as they, but for much less money.

Indeed, he argues, the shift to specialization may reflect economics more than it does patient demand.

At least one authority says a family doctor, using modern methods and competent help, can take care of three or four times as many patients as a specialist.

A bright light on the horizon is the minority of medical students who insist that their training be more "patient-oriented"

instead of simply focusing on one disease after another.

This could mean that the arthritis specialist of tomorrow will not ignore his patient's dental problems; it may mean that more doctors will graduate to deal with "the whole patient, entire."

It's too early to tell how social activism of a few students will affect the situation. However, change seems to be more likely than surrender.

"The day of the do-everything GP, who removed gall bladders in a suite above the corner drugstore, are gone—and good riddance," said Dr. James L. Dennis, dean of the University of Oklahoma School of Medicine.

"A new breed of family physicians is emerging—a specialist in the very complicated aspects of family structure, human behavior and health, and the relationship between these."

This family doctor concept is what led the American Academy of General Practice (AAGP) to press for specialty status for its members two years ago, after long carping about increased specialization by other physicians. "They're being trained more and more to do less and less; next we'll have a man dealing only with the left thumbnail," was the type of comment common at GP meetings.

But to specialize in generalization is not only a contradiction in terms, it was also an unsatisfactory answer to AAGP members who saw themselves left with the odds-and-ends untouched by other, richer specialists.

In the process of resolving this, the AAGP set up a definition of family practice that could change medical education, hospital and office procedures and (to some extent at least) the delivery of health care itself.

There are now only about 4,000 "specialists in family practice," so it's too early to tell whether this will mean you'll find it easier to get the medical attention you need or whether you'll be more satisfied with the care you receive.

Optimists hope the family-care concept will reverse the present drift toward ivory-tower scarcity. In the meantime, it could make matters worse for a few years.

To gain this specialty status, the medical school graduate will have to spend three years in hospital-based training. He will then qualify for certification by a specialty board. To maintain this (and his AAGP membership) he will have to complete 50 hours of lectures and seminars each year, and be re-certified every sixth year.

This means the young family doctor will be delayed two years in putting up his shingle. And more time will be taken from his practice, to keep abreast of his specialty in a systematic way.

(As in most specialties, not every doctor will seek board certification. Neither will he have to maintain AAGP membership, but the three years of hospital training may become mandatory.)

Why bother? Just because specialists earn more? Men in general practice aren't really suffering. Just to gain a bit of extra status in the medical community? It must be admitted this is part of the reason.

More important is the hope that more young medical graduates will join the GPs' ranks, increasing both the number and quality of family physicians.

The argument is made that many young people enter medical school with general practice as their goal. After being exposed to nothing but specialists in medical school for three or four years (GPs don't teach, nor are they on the staffs of most teaching hospitals), general practice doesn't seem all that important.

By the time they graduate, the students are eyeing any one of three dozen specialties and overlooking family practice. Less than 2% of them become GPs. This is increasingly true

in schools of osteopathy, too, although they have been geared traditionally toward general practice.

In part, this has created the present shortage—which is a real one, and not just a matter of where you live or how much you earn. The GP ranks have been thinning out steadily for 40 years. In 1930, there were 115,000 family doctors—70% of all MDs and DOs.

Now there are about 62,000. Only one doctor in eight is a GP.

In the meantime, the population of the United States has grown from 123 million to more than 205 million. The "average GP" in 1930 had 1,070 patients; today he has 3,325.

That's three times as many people trying to buy the services of each family doctor, while the public is being taught to see doctors more regularly and has come to expect more of them. Add to this pressure from federal experts for a doctor who can "provide access to entry into the health care system."

"The practice of medicine is a social institution which must keep abreast of changing times," Dr. George T. Harrell of Pennsylvania State University College of Medicine noted recently.

"In the past, the family physician worked alone, practicing general medicine whether he lived in the city or rural area. Acute illness was cared for in the home, with the family's help.

"With the increase in specialization, the solo GP found himself increasingly unable to encompass all fields of medical knowledge. A few groups of specialists practicing together began to appear, often serving in lieu of the family doctor."

Dr. Robert S. Young of Johnstown, president of the Ohio Academy of General Practice (OAGP), is critical of that concept. "The specialty group idea is adequate if the group is well stocked with doctors who are able to handle, economically and expertly, the 95% of patients we see in general practice.

"But who will take the time to listen to their many problems and complaints, make a decision as to treatment and then follow it through to a conclusion?"

Groups tend to cluster in fairly large urban centers. Dr. Harrell noted, "Individual physicians (and their wives) are increasingly reluctant to leave and raise families in small towns or rural areas. They are reluctant to commit themselves to on-call service 24 hours a day, seven days a week.

"The pressure is not financial, since the family doctor can quickly achieve higher levels of income in rural areas than those beginning a practice in cities. But the proportion of family physicians in rural areas and small towns has diminished; recruitment has not kept up with attrition; a high proportion of GPs are more than 50 years of age."

The doctor patient ratio varies greatly across the United States, but in few places does it reach the 1-to-2,500 figure that many experts contend is the best balance. In Ohio, only 10 counties are in that category.

In Cuyahoga County, the ratio is one per 4,500; in Lake and Geauga counties, it's one per 6,000; in Lawrence, it's one per 7,100.

Such ratios don't tell the full story, though. The four GPs in Carroll County may work harder taking care of 22,000 people than do the 385 GPs (including osteopaths) in Cuyahoga, although both counties have the same doctor-patient ratio.

In Carroll, there are no doctors except those in family practice, and there is no major concentration of people.

Such differences are reflected in the GP's practice. Said Robert M. Ball, Ohio State University medical student who spent 11 weeks last summer with five doctors: "I finally came to realize each physician's practice was what he personally wanted.

"Each developed his own approach to the type of practice that best fits with his own personality."

Dr. Young seldom visits the Columbus hospital in which he has staff privileges, and he does not deliver babies. He is the only family doctor in his county. He has calculated how many patients he could see just in the time it takes him to drive into Columbus and back . . . and decided in favor of the patients in his waiting room.

On the other hand, Dr. John W. Lester of Mapleton says, "Some may argue that obstetrics is not financially feasible with a busy practice, but I feel it's essential in creating the necessary rapport with a family. I use the prenatal and postnatal periods for family counseling and I think it has helped anticipate problems in some instances."

Some GPs see patients on a first-come, first-served basis; others set up quick-moving patient timetables. Some are available at night; some make house calls; some are immersed in community affairs and politics; some feel driven by their patients' needs and are almost overwhelmed by the lack of backup help; some enjoy attending medical meetings that others avoid; some fear their neighborhood while some worry about lawsuits for malpractice.

Most emphasize preventive medicine, and this pulls some GPs into the community to deal with problems of pollution, sanitation, drug abuse and other public health matters the specialist may ignore.

That same community may set the limits on family practice. Is there a hospital? Nursing home? Pathology and radiology laboratories? Can the doctor get a friendly, competent nurse or technician? How far away is the nearest doctor?

Are there more old people than young? Is it a farming community, urban slum or sprawling suburb? Do the people speak his language? Would they know if he left his phone off the hook some night?

Is there an expressway nearby, each mile marked with its quota of accidents? Will he have a lot of Medicare and Medicaid paperwork, or work injury claims, or high school athletic events to supervise? All these factors define family medicine.

But the GP must go beyond. He cannot function properly unless he has a variety of specialists to call on. Sometimes this can be done by direct consultation. In rural Ohio, it is possible to transmit a cardiogram by telephone for diagnosis by a specialist at the receiving end or to have helicopter-flying pathologists pick up and deliver specimens within a few hours.

In other cases, it is necessary to refer the patient to the specialist in his own office or hospital. It may even be possible for the family doctor to minimize the fuss and waiting associated with such consultations.

Important in all of this, say the GPs, is the fact that somebody remains interested in the whole patient, regardless of what part of his body is being examined by an appropriate specialist.

"The hospital specialist will be concerned with serious organic disease," Dr. Young said. "The family physician will contribute his knowledge of the patient as a person, of family relationships, and of the emotional-social aspects of the illness.

"When the specialist is finished, he refers the case back to the primary physician. In diabetes, for example, the family doctor is usually able to monitor diet and the use of drugs in relation to blood-sugar levels without the patient constantly trotting back to the specialist every month.

"This doesn't mean the family doctor will just handle the routine and boring aspects of health care. There should be enough variety in his practice for the application of all his knowledge and skills.

"We sorely need the Cadillacs and Imperials of the medical profession, but we also need a greater number of Chevrolets and Fords," Dr. Young said.

The lack of sharp focus has made it hard to define family practice more clearly, which puzzles the medical student who is preparing for it. He wants to know what he must learn, what he should concentrate on, what he can expect to do. The GP no longer answers "everything," but many talk about philosophy instead of specific curriculum content.

In 1966, a committee that studied this said, "Many different approaches may be required before new training programs can be developed with assurance of success." Allow for experimentation, it said, and avoid rigid standardization.

That may be good advice, but it is hard to translate it into a curriculum that will develop the type of physician that AAGP talks about.

Who is he? Let's look at how the GP spends his day.

He deals with common cold and aches and pains; he treats most accidental injuries; he delivers babies (more than 60% of babies born in the United States are delivered by GPs) and circumcises and male infants. He immunizes children and takes care of their illnesses; he inoculates travelers and performs premarital VD checks; he may oversee the school athletic team and act as physician for a local industrial plant. He takes care of most of our older people, both in and out of nursing homes.

His field overlaps those of a dozen specialties from allergy to urology. It sounds like a contradiction in terms, but he is a busy "multispecialist."

And he is most sensitive to the emotional components of disease. Many disorders combine our mind and body; some reflect deep emotional disturbances; some are aggravated by an inability to tolerate the stress of illness. The family doctor must be prepared to spend time talking about sexual problems (contraception, sterility, marital adjustment), alcohol and drug use or illness and death in the family.

"Understanding the whole patient is important in tempering treatment and providing total health care," said Dr. Young, who teaches an OSU course on psychosomatic medicine. "The family doctor should be able to deal with the common tensions, anxieties and depressions that start (or complicate) a fair proportion of the problems with which he is faced."

However, much of the GP's practice has nothing to do with illness. Just as a pediatrician spends a lot of time on well-baby care, so too must the family doctor devote much energy to inoculations, screening tests, physical examinations and so on.

Such "nonsickness" may make up one-fifth of his practice, according to a recent survey. This includes annual physicals and those demanded by schools, employers, summer camps and insurance companies.

The family doctor averages six to eight minutes with each patient, so he may see 60 or more a day. Many doctors have multiple examination rooms so that a nurse or aide may prepare one patient (weight, temperature, blood pressure) while another is being treated in the next room.

The picture, then, is a brisk potpourri of checking hearts, looking down throats, prescribing The Pill, examining skin blemishes and talking about Grandma's nursing home.

This is in contrast to the specialist who spends his day seeing case after case of high blood pressure or glaucoma or whatever. The specialist must be aware of other physical problems, but if they don't impinge on the patient's immediate needs, they must be postponed for examination by someone else. The kidney-transplant surgeon can't worry about athlete's foot, nor should he.

"Training in internal medicine prepares a man to deal with the more unusual problems he will encounter, so it is unlikely he would be interested in cuts, minor fractures, skin problems or routine prenatal and obstetrical

care," said Dr. Frank W. Myers, Northfield osteopath.

"A pediatrician shouldn't spend most of his time examining well babies and giving shots. He will be of greater value to the community if he focuses his time and attention on the unusual and complicated problems of childhood."

If the specialist is a wary ally of the family doctor, there is another enthusiastic source of support in the hospital. Most administrators would like to see more family doctors in the hospital—otherwise they will be swamped by a rising flood of nonemergency visits to emergency rooms by patients who can't get medical care anywhere else.

"Sooner or later, most hospital inpatients become impatient with hospitals," said Dr. Edwin L. Crosby of the American Hospital Association. That's probably why ambulatory (walk-in, walk-out) care is now the fastest growing service in the nation's hospitals.

"Nearly six people use ambulatory services for each one admitted as an inpatient. Most experts agree that where such care is possible, it is better for both the consumer and provider.

"From the patients' point of view, it means illness becomes less of an emotional, physical and financial burden. For the hospitals, it means more beds available for acute-care patients."

Administrators would also like to see more family doctors on their medical staffs, if only to help man the emergency rooms and outpatient clinics. Some GPs deride this as "second-class staff privileges" but others see it as a logical form of group practice.

One problem here (and with clinics or group practices in general) is that the clustering of doctors moves them out of the community, and the benefits of a neighborhood office are lost.

However, many believe that including one or more family doctors in a group practice makes sense. There is a difference between a group of GPs sharing an office and the multiple-specialty office in which the family doctor is part of the team.

Many GPs like the shared office because it gives them more freedom and shorter hours and assures that their patients are being cared for. In the team practice, it is the family doctor who sees the patient first and who leads him through the rest of the medical system.

This would be true comprehensive, continuing health care, and may be available to the poor before it is provided to the rich. The new family-health-care center at Cleveland's Polyclinic Hospital is the kind of arrangement that many GPs consider ideal. It will be used to train men and women in family medicine.

In Cleveland, distribution of family doctors is spotty but not as bad as elsewhere.

About 50 GPs practice in or near the East Side inner city, including the substantial concentration at E. 105th Street and Carnegie Avenue S.E. Either that isn't enough, or they aren't accessible enough, because Mount Sinai and University hospitals have crowded clinics and emergency rooms. And many poor patients still cross town to Metropolitan General Hospital for clinic care, instead of visiting a family doctor a few blocks away.

Such bypassing of the doctors' office is widespread. In the area of St. Vincent Charity Hospital there are 11 family doctors who charge about \$10 for an office visit. Patients still head for the emergency room where the charge is \$20, plus doctors' fees ranging from \$8.

That won't change if the GP becomes a specialist. As a matter of fact, there doesn't seem to be much change in sight when it comes to the way he will treat you and your medical problems. That may have to wait for the next "generation" of family doctors to emerge from medical school.

Then the change may be radical enough to affect the whole delivery of health care. Dr. Vernon Wilson of the University of Missouri sees one "basic practical difference" that could alter things and that is "attitude—the way the family doctor views his practice and his patients.

"The new specialist will function as a continuing medical advocate to his patients . . . more like a lawyer on a retainer than the corner filling-station operator who sells gasoline on a stop-in basis.

"He will practice medicine on a continuing basis, rather than on an emergency, episodic basis. This means he will emphasize preventive medicine as much (or more) than curative medicine.

"He virtually must have family units as his patients because of the interaction factors in his approach. He will see each patient as an individual, but each must be considered against the backdrop of the family unit," Dr. Wilson said.

"Many good GPs have been doing this for years, but they were not trained to do it. They developed this method through a concern for their patients and as a result of social forces in the community."

The resulting specialist in family medicine will differ, too, from specialists in other fields of medicine and surgery:

He will be more concerned with people than with things, Dr. Wilson said. He will see medicine as a means of helping his fellow man.

He will tend to view things as a whole, rather than as elements or parts.

He will be something of a pathfinder, rather than traditionalist.

He will view himself more as an artist dealing with others and their problems than as a scientist dealing with disease processes or malfunctioning organs. He will see science as a means to an end, rather than an end in itself.

He will be concerned with his community as a whole, as an extension of his patient-family units.

"Such standard-bearers who will build the specialty will probably not begin to emerge in significant numbers until the mid 1970s or later," Dr. Wilson agreed.

Then family practice will become "the most universal specialty, in terms of broad-scale need and flexibility of approach," said Dr. Lauren M. Brown of Akron, president-elect of the OAGP.

Dr. Brown is on the medical staff of Barberton Citizens' Hospital but sees "the scope and breadth of the specialty will enable it to be practiced almost anywhere, without the lifelines to the medical centers required by limited specialists."

The new family doctor "will need reasonable access to consultants and medical centers," Dr. Brown continued, "but methods by which that can be achieved are already available: auto, telephone, electronics and so on."

If it is agreed that students should learn all this about family practice in a systematic way, rather than by what Dr. Myers has called the "sink or swim method," even more GPs must teach.

"It would be most desirable if these physicians passed on the things they have learned," Dr. Myers said. "One of the most important things we could teach is how to identify the things he should not try to learn."

GP, SPECIALIST: VIEWS CLASH

This is the general problem seen by the family doctor:

Medical schools are turning out researchers and specialists, rather than general practitioners, men who focus on one disease category or one organ or one aspect of technology, rather than on the whole patient.

This means few physicians graduate, to whom the patient and his family represent

a spectrum of medical problems, most of which can be handled in a doctor's office.

Many GPs complain they do not have hospital privileges, so they must turn over their patients to specialists whenever hospital care is indicated.

And here is how the specialist sees it:

Medical knowledge has become so complex—and will continue to do so—no physician can cover all illnesses in all men. They see a need for more specialization, rather than less.

Medical progress has depended on progress made by pathologists, radiologists, researchers and other MDs who may seldom see a patient.

By the time a patient needs hospital care, he has moved out of the family doctor's field of competence, they claim.

GP STATUS SEEN SPUR FOR MEDICS

(By Fraser Kent)

Due to the shortage of general practitioners, self-diagnosis is on the increase as patients try to figure out which specialist they need. So, too, is diagnosis by telephone (something doctors were firmly against only a decade ago) as doctor and patient find it more difficult to get together.

Families moving to new homes complain of trouble finding a new doctor, and waiting room delays seem inevitable and endless.

Due to the shortage of GPs, general surgeons, internists and pediatricians are forced to do family medicine, said a spokesman for the American Academy of General Practice (AAGP).

"This is something for which they are not trained, and it results in both inadequate patient care and a waste of their specialized skills, which should be reserved for unusual and difficult cases," he said.

Part of the answer to the manpower shortage would be graduating more family doctors from medical school, he added, if only because a GP cares for more patients in less time than does the specialist.

It is hoped that elevating the family physician to board-certified specialty may offer him prestige equal to that of other doctors. It will also give him entry to teach in most medical schools.

Dr. Maynard I. Shapiro of Chicago, past-president of the AAGP, noted that students tend to copy their teachers. "Because medical schools have become geared to research and specialization, students simply didn't come in contact with the family doctor.

"By bringing him back into teaching, the new specialty should increase student motivation and spur recruitment."

It is hoped that spur may prod 2,000 graduates into family practice each year, despite critics' claims they will be "specialists without a specialty" and that few will be drawn to it.

Dr. Lynn Carmichael, University of Miami family practice director, says guardedly: "At present, it is the exceptional or somewhat atypical student who is interested in family practice. Most students are conservative and go along with the status quo.

"They have been too well brainwashed and are not attracted by ambulatory (walk-in, walk-out) medicine. The pool of applicants is not likely to be very large for the next few years."

The Ohio State Medical Association is trying to make it more attractive for family practice students by offering two annual scholarships. They are for \$2,000 each, over four years. Last year, the recipients were John E. Pappas of Cuyahoga Falls and John H. Surry of Youngstown.

Ideally, they will graduate as "people doctors, blending a personal approach to family health with sophisticated techniques of diagnosis and treatment," said Dr. Ward Darley, former executive director of the Association of American Medical Colleges.

They will have "therapeutic opportunities other physicians would be denied," claims Dr. Frank W. Myers, Northfield osteopath. "Each of us has a limited cranial capacity; we all remember and do best the things we do often. Because of this, all specialists are limited.

"The deeper they delve into their specialty, the more limited they become. There is a need for the comprehensive specialist who is broad in scope but who makes a distinct effort to avoid digging deeply into any of the particular subjects now covered by the narrower specialties."

This has practical limits, added Dr. Raymond O. West, chairman of family practice at Loma Linda (Calif.) University. "There is a certain level of expertise for most conditions that cannot be exceeded, no matter how much money or how much special training you bring to bear on it.

"For instance, a family physician who considers all the possible diagnosis can take care of a strep throat as effectively as could the best-trained pediatrician or otolaryngologist."

Very often both the specialty and the preparation for it have been described in negative terms: What it isn't and should not be. This may be a problem in attracting and holding students, said a medical school dean who asked that he not be identified.

"Without a clearly defined, specific body of knowledge, we will have trouble developing training programs," he said. "The faculty must know what they are expected to teach to produce a physician who can provide comprehensive, continuing health care.

"Right now, the men in general practice aren't offering any helpful suggestions, but describe their specialty only in terms of its philosophy and approach instead of specifics. We want to know how much dermatology? How much cardiology? Gynecology?"

Even more of a challenge is posted to educators in that medical training has been centered on the hospital and clinic, while the GP's practice is oriented toward a private office.

Many problems he sees never reach the hospital, so a medical student might never be exposed to them. And the average free clinic population presents a different "mix" of medical problems than that seen in general practice.

So what will the future family doctor be taught? Most experts would add basic economics and sociology to the basic "core subjects" of today's medical school. Add, perhaps, psychosomatic medicine taught by a board-certified family doctor. But little emphasis on research, other than the general principles a doctor must understand if he is to evaluate and apply research findings.

"The primary mission of a medical school is to teach physicians to take care of sick people, to meet the health needs of society," said Dr. Howard Rusk, director of the Institute of Rehabilitation Medicine, New York City.

"It's unfortunate that many top medical schools try to turn out mostly researchers and full-time faculty, because that seems to be the most glamorous goal."

Equally stern words come from Dr. Edward D. Martin, former president of the Student American Medical Association now interning in pediatrics: "The traditional methods of training physicians have nothing to do with how medicine applies to people in the community," he told Medical World News.

"Most schools have become citadels of medical science that I feel are completely detached from the real practice of medicine.

"In my school, some 60% of the faculty had no contact with patients. Those who did were concerned with for example, systemic lupus erythematosus (a severe skin disorder) more than lobar pneumonia. I never treated a patient with pneumonia in my medical school," Dr. Martin said.

"Will the schools turn out super-technicians who have no experience in the art of medicine and no perception of the major social problems that create the medical problems we treat? Will we continue to be fragmented with episodic, acute care?"

"Or will we begin to deal with the real problems of patients to prevent the development of acute diseases that constantly face us in the hospital?"

Such young idealism is being heard by older physicians.

"Medical students cry for a return from the impersonal medicine of the 1960s," Dr. Ross L. Egger of Dalesville, Ind., said recently. "With the new specialty of family practice hardly off the drawing board, students are applying for these programs at twice the number of available openings."

The objections to research are not against it as an occupation but against the undue emphasis placed on it by medical schools that have come to rely on federal research grants for their existence. These have paid the salaries of the highly skilled specialists on the faculty, but there is more to medicine than this.

"Medical researchers persistently concern themselves with the causes and treatment of disease," said Dean James L. Dennis of the University of Oklahoma. "The time has come for us to begin a search for the causes of health—something that is more than an absence of disease.

"Today the concern is for the prevention of illness and the treatment of physical disorders on a firm base of science and technology, rather than trial-and-error and 'art.' The public is widely informed and their expectations are unrealistically high.

"The kind of physicians that are produced are no less important than the numbers produced," he added.

Dr. Robert S. Young, president of the Ohio Academy of General Practice (OAGP), thinks the problem could be resolved if each freshman medical student spent some time with a family doctor in his office.

"He would see what family practice is; he would see how it relates to other specialties; he would see how all of this works in the context of the community. He would have a realistic picture of what medicine really is, outside of the university medical center," Dr. Young said.

"Then he can make a rational choice."

Later such a choice may be harder to make, after continued exposure to training by teachers who focus on one sickness or one group of molecules. "When I take a senior student into my office and show him a red eardrum for the first time in his life, I can't help but feel he knows more about disseminated lupus erythematosus than I ever will, but will probably have a hard time finding enough patients to exercise his knowledge on," said Dr. James B. Price, a general practitioner in Brush, Colo.

But most agree that the emphasis on family practice training as such would not really begin until the student was graduated and began his hospital training as intern and resident. That will probably cover three years, and the GPs again insist the young doctor must be freed from the specialists' domination.

"Today's postgraduate courses are disease-oriented," Dr. Carmichael charged. "The intern rotates from the hypertensive clinic to the diabetes clinic to the emergency room, and so on.

"He treats the patients only for the condition that brought them in, sees the patients singly and in a hospital setting, and sees only those who need attention while he is on shift."

By the time he emerges from medical school, "the student is apt to concentrate on tests, studies and records relating to the patient, rather than on the patient him-

self," said Dr. Morris Fishbein, medical journalist.

"He is a better educated scientist than the physician of the past, but somewhere en route he has lost the healer's basic humanities."

Dr. Darley compared the process to bird-watching. "An ornithologist can learn something about birds by studying them in a laboratory, but this isn't comparable to observing how they eat, mate, nest and fly in the forest.

"Similarly, a family practice resident can learn something from treating bed patients in a university hospital, but not nearly as much as he would in the surroundings that influence how people live and work, the sort of illness they get and how well they recover.

"In the classical outpatient department setting, students may not only lose their interest in patients as people, but may actually turn hostile to them."

Dr. Darley said the practical part of such education must take place in an office, the patient's home or a nursing home. "Students will learn to accept health protection, disease prevention and rehabilitation as part of their responsibility.

"They will learn how to work with voluntary health groups, welfare agencies, public health organizations, industrial health services, the police and clergy."

It might be possible, Dr. Carmichael suggested, to set up a model service in the medical school that resembles the actual situations the family practice resident would encounter later. "He will make house and nursing home calls; he will see whole families, and will treat patients on a continuing basis.

"Medical educators never really see the family physician at work; many don't know what he does, so he must be made visible in the medical center."

Something along this line has been developed at Loma Linda. In his first year, the resident will spend several months on internal medicine, obstetrics, pediatrics, psychiatry and general surgery. "He will also take responsibility for the over-all health of five to 10 families as outpatients," Dr. West said.

"In his second and third years, he will be exposed to dermatology, urology, ophthalmology, pathology, radiology and preventive medicine. And he will increase his practice to 50 families, shared with another resident who will know the same patients equally well to provide continuing care and personal, informed attention."

That would mean a resident could appraise a family's health hazards, direct a social service and financial evaluation and then make a home visit, Dr. West said. "He will inoculate the children, talk to the parents about diet and fitness, inform himself of their schools and jobs, and enlist the help of community agencies whose services can be applied to their needs."

He explained that residents are being trained in pairs or groups "because we want to get away from the old pattern of sending a doctor to a small community where he overworks year after year without help.

"We don't want him finally to get discouraged and go into specialty as so many GPs have done."

Another program outline: three or four years of medical school, plus one year of nonsurgical rotating hospital service, one year split between internal medicine, pediatrics and psychiatry and one year in a family doctor's office or outpatient clinic.

Students have suggested adding more social sciences, cultural anthropology and general surgery to that list. Dr. Smith would also urge training in marriage and sex counseling, in dealing with emotionally handicapped children and in preparing patients psychologically for surgery and childbirth.

"And the young doctor must also learn

how to offer aspirin and sympathy when there's nothing else," the OAGP president said. "He must face the problem of doing nothing, when that's the proper thing to do, and of persuading the patient he is right."

Tomorrow's family doctor must also be trained to say "no" to the specialist who thinks he knows the proper answer, added Dr. Paul W. Weiss, chief of surgery, Youngstown Osteopathic Hospital.

"The specialist often fails to realize his perspective is narrow and limited and there are many things of which he may not be aware that can and do alter the family physician's decisions.

Developing such a doctor would probably eliminate much of the unnecessary medical care which is given today and would no doubt significantly decrease the extent of iatrogenic disease (that caused by treatment) which we all see."

He then summarized his concept of training a family doctor:

He will focus on upright patients, diseases that occur often, patients with long-term illness or problems related to emotional stress, as well as those needing hospitalization or emergency care.

He should receive regular instruction and gain experience in assessing the patient's condition, in the use and interpretation of laboratory procedures and in applying the principles of differential diagnosis and proper therapeutic management. Emphasis should be placed on the history and cause of disease.

He should understand and be able to manage the problems of the newborn, congenital malformation, growth and development through adolescence, nutrition, mental retardation and the behavioral and emotional problems of children.

He should understand the biological impact of pregnancy, delivery and care of the newborn upon a woman and her family. He should acquire skill in providing care before and after birth, and understand the complications of pregnancy and their management. He should be adept at managing gynecological problems.

He should recognize surgical emergencies and evaluate conditions that require elective surgery; should understand the kinds of surgical treatment that might be used and the problems that may result.

THREE MONTHS AFTER OVERWORKED MD QUILTS: GP CRISIS LEAVES VINTON DOCTORLESS

(By Fraser Kent)

McARTHUR.—The office is large, pleasant and well equipped for the practice of family medicine. It is near the center of this small county seat in southeastern Ohio.

It is empty. It has been empty since the only physician in Vinton County, Dr. Richard E. Bullock, left here Feb. 15.

There is a shortage of general practitioners in most parts of Ohio, but this is the only county with no GP at all. In fact, no physician of any kind.

The 80 patients Dr. Bullock saw on an average day must now go 20 miles or more to see a doctor. That's the distance from Rocky River to Shaker Heights.

"We just buried a lady this afternoon, a sixth-grade school teacher, who might have been alive right now if there was a doctor here," said James Blower of the Wrightsel funeral home, which provides the county with ambulance service.

"She was overweight and her legs were swollen so she used to see Dr. Bullock once a week. She couldn't drive because of her condition, so she kept putting off the longer trips into Logan. If we'd had a doctor here . . ."

Sick people in Vinton County have found that doctors in nearby towns are already overworked and unwilling to take on more

patients. Most have accepted up to 30 patients only on a standby basis; they would be expected to return to McArthur if and when a new doctor arrives.

With only 30 patients per doctor, that means most of the 9,500 people in Vinton County have nobody to turn to.

Fortunately, most people in this Appalachian region of Ohio are healthy and hardy. And fortunately, there has been no major highway crash, industrial accident or epidemic.

These people have not yet started to think the unthinkable: that there may never again be a doctor in their town. "I just can't believe that," said a restaurant owner. "I'm sure they'll find somebody."

"They" are the town's doctor committee, made up of Dr. Arnold Lee, a dentist; Mayor Mel Shover, banker Robert Will, lawyer John L. Beckley, Judge Peter Abley, pharmacist William Gorsuch and George Knox, a savings and loan official.

"It's been tough and discouraging, but there hasn't been any real hardship, yet," Dr. Lee said.

(Although the distribution of dentists is also uneven in Ohio, there is no county without at least one, according to a directory of practicing dentists issued last July by the Ohio State Dental Board.)

Three months ago—after spending 22 years in McArthur—Dr. Bullock announced his retirement, to accept a less strenuous job in Blacksburg, Va. He had been unable to find an assistant to help relieve the pressure of a 100-hour work week, and was recently divorced from the girl he married while in graduate training in Toledo.

He is now attending staff physician of the student health service at Virginia Polytechnic Institute and State University.

Working 40 hours a week.

"We've been doing everything we can to find a new doctor," the dentist said. "We'd really like to have two men here—the office is large enough for that.

"We've advertised in medical publications. We sent bulletin-board notices to the 150 hospitals in Indiana, Kentucky, Ohio and West Virginia that have intern and residency programs, and to military installations and the Appalachian Medical Center."

The committee's notice said: "Gross income limited only by number of hours you want to work." It emphasized the proximity of Ohio University in Athens, and the recreational facilities of Vinton County, "excellent uncrowded golf courses and country club," without noting that Dr. Bullock long ago found himself too busy for a game of golf.

"We've been in contact with Ohio State University and the Ohio State Medical Association, for those doctors who are inquiring about locating in Ohio," Dr. Lee continued. "Our congressman has checked with the U.S. Public Health Service.

"With just one nibble. Two or three doctors thanked us for letting them know about us, but that's all."

The one nibble came from a physician in Rochester, N.Y., who said he was tired of paying high city taxes. He visited McArthur, but last week sent a "thank you, but no thank you" note.

This is a crossroads town of 1,500 with another 1,000 or so living within a 10-mile radius. The county's main jobs are at Austin Powder Co. (where Mayor Shover works), strip mining for coal and farming.

This is Appalachia, but it is not Dogpatch. The houses are usually trim, the people well fed. Much of the country is state park or forest; Lake Hope, Zaleski, Raccoon Forest. The hilly roads curve like Raquel Welch, and the population is scattered.

The population is aging and decreasing; young people often move out after they are graduated from high school. This could mean

an increase in the number of bedfast invalids, within the next few years.

McArthur is almost the geographic center of Vinton County. Logan is 24 miles north; Athens 28 miles east of Chillicothe 31 miles west and Jackson 20 miles south. There are doctors in all those towns, with another in Wellston (10 miles south) and a hospital in Nelsonville (25 miles northwest).

In Vinton County, the only health professionals are Dr. Lee, the pharmacist, and two county health department nurses.

Four years ago, Josephine Robertson (then The Plain Dealer's medical writer) described Dr. Bullock's practice:

"It begins at 9 a.m. and, barring emergencies, ends when the last patient has been seen, be it 2 or 3 a.m. His workday sometimes lasts 20 hours.

"He drives 36,000 miles a year. Dr. Bullock was chief of obstetrical service in Hocking Valley Community Hospital in Logan, on call for an OB emergency whenever a patient's own doctor was unavailable.

"He has been physician for the athletic teams in the county schools. Some of the more than 2,000 babies he has delivered are now on those teams, and he has watched them grow up with his own five sons."

At the end of the day, Mrs. Robertson asked Dr. Bullock, "Aren't you very tired?"

"Not as much as sometimes. There are days when I feel 162."

"Why do you keep on here?"

"I can only answer that with another question," the doctor said. "What would they do in Vinton County if I didn't?"

"What will they do without a doctor?" echoed Dr. Richard L. Fulton, president of the state medical society, in its journal. "That same question rings out in a number of rural areas throughout Ohio.

"We are not referring to villages where doctors are needed, but where people have access to physicians in nearby towns. We are speaking of areas where people will have to go miles to a physician in a neighboring county."

He has appealed for a young doctor (or better still, two) to set up practice in McArthur. "Physicians in rural areas are not going hungry," the medical association's Dr. Fulton said. "On the contrary, most of them are living exceedingly well. The problem is not lack of patients, but an overabundance of them, as in the case of Dr. Bullock."

Dr. Bullock, 54, graduate of Cincinnati Medical School, made up the entire county medical society. He was on call 24 hours a day, seven days a week.

Some people in McArthur believe the hectic pace helped break up the Bullocks' marriage (Mrs. Bullock now plans to sell their house and return to her home in Toledo) and almost killed the doctor.

"I used to lie awake nights worrying about Dr. Bullock killing himself with overwork," a medical association spokesman told Medical World News. "One night he did drive his car off the road, suffering a broken shoulder."

Now, looking back, the townspeople wonder why he drove himself so hard. For example, he left the staff of Hocking Valley Hospital after another doctor delivered his patient's baby. Many other doctors, under far less pressure, have willingly turned over their obstetrical practice to specialists so they could concentrate on the patients waiting in their offices.

"You could go over there at 9 o'clock in the morning, and still be there at midnight," recalled Judge Wade Lohr of Vinton County Common Pleas Court, a cardiac patient who lives next door to the doctor's office. "If he got a call from the hospital, he'd just run out and leave everybody sitting there."

"But he kept in close contact with the ambulance service," Blower of the ambulance service said. "He told us when he was leaving, when he expected to be back, when he was delayed at the hospital, and so on. He was very careful about things like that.

"I hope the new doctor puts his foot down, though. He should say—look, I'm just a general practitioner, there are limits to the things I can do, the amount of work I can do, and the time I can take. He's going to have to be firm about things like that."

If McArthur can find a doctor, there is a suggestion that Ohio State University would use this office in its family practice internship program. Each intern would be here only three or four months, but this could take the pressure off a lone physician.

Things would have been easier if Dr. Bullock had been able to persuade another physician to come in as a partner. When the brick office building he and Dr. Lee, the dentist, shared was built in 1952, the hope for such a partnership was incorporated in the design.

However, it was just as hard then to draw a doctor into Vinton County as it is now.

After three months, most of the people are still optimistic, even those who need care. Said Judge Lohr: "If I have a heart attack, we'd just call the ambulance and go to the hospital in Nelsonville. We'd arrange for the doctor to meet us there. It means another 25 or 30 minute's difference in seeing the doctor, and of course it means I can't get my shot here before I go."

Some of the work load was taken by the county health department's two registered nurses, Mrs. Dian M. Partlow and Mrs. Mary Shover, the mayor's wife who was Dr. Bullock's nurse.

"We gave some of his diabetic patients a few injections, on his orders, but we had to stop that by May 1," Mrs. Partlow said.

"And we had to persuade people—the chronically ill ones especially—to seek other doctors. Some of Dr. Bullock's patients were stunned by his leaving they just couldn't believe it. Some of them said they'd just wait and see, thinking a new doctor could be coming in right away.

"We had to do a lot of encouraging of people to make them find somebody to take care of them in Dr. Bullock's place."

By now, most of those with long-term illnesses have found other doctors in surrounding counties, but that isn't always satisfactory. One woman said she had a fainting spell and when she phoned the doctor in Logan, his secretary said there would be a two-week wait before an appointment could be scheduled.

House calls, of course, are out of the question.

This can be a problem for the aged, sufferers from arthritis, diabetes, emphysema and heart disease. They had trouble enough getting in to see Dr. Bullock, Blower, the ambulance man, said. Some can no longer drive, and must be taken by ambulance 20 or 30 miles at \$1 a mile. Medicare pays a maximum of \$15 per trip, and the aged invalid must make up the balance.

"Some of them just don't see any doctor now," Blower added.

He told of one woman who lived 12 miles from McArthur. "When her doctor told her to come into the hospital, we had to drive out and get her, and then drive 30 miles to the hospital.

"Her doctor finally called to find out where we were. He couldn't understand why it would take an hour for her to get there."

In reviewing the situation, Dr. Fulton of the Ohio State Medical Association said: "The doctor's pledge is to serve humanity. The opportunity to fulfill that pledge is knocking, knocking, knocking."

Dr. Bullock isn't sure the pledge will be filled. He feels most of today's young physicians lack the dedication doctors had years ago and are losing contact with patients.

For areas like Vinton County, he sees a bleak prospect: a series of first-aid stations, supported by county health departments and manned by nonphysicians, "I dread the thought, though. It would be a gross miscarriage of medicine."

The people of Vinton County are calling for help as loudly as they can, and Dr. Fulton says opportunity is knocking. Is anybody listening?

COMMON CAUSE OPPOSES TREASURY'S BILLION DOLLAR GIVE-AWAY

HON. BIRCH BAYH

OF INDIANA

IN THE SENATE OF THE UNITED STATES

Wednesday, May 12, 1971

Mr. BAYH. Mr. President, on May 3 I testified in opposition to the Treasury Department's proposed asset depreciation range system. I strongly believe that this backdoor attempt to reduce corporate taxes by liberalizing the depreciation allowance is wrong as a matter of law and wrong as a matter of economic policy. Also testifying in opposition to the Treasury's proposals on both grounds was the distinguished dean of the University of Pennsylvania Law School, and one of the Nation's leading authorities on tax law, Dean Bernard Wolfman. Dean Wolfman's thoughtful remarks, I should add, were presented in behalf of Common Cause. I ask unanimous consent that my statement and the full text of the excellent brief prepared by Dean Wolfman be printed in the RECORD at the conclusion of my remarks.

There is still time for the Treasury Department to withdraw the proposed regulations. There is still time for Congress to act. Repeated statements by Treasury Department officials that the Department cleared the ADR proposals with certain congressional leaders notwithstanding, it is important to keep in mind that individual assurances of approval cannot confer statutory authority where none had existed—and in this case the Treasury simply does not have the authority to open the public purse to a multibillion giveaway in the form of lower corporate taxes.

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

STATEMENT BY SENATOR BIRCH BAYH OPPOSING THE PROPOSED ASSET DEPRECIATION RANGE SYSTEM

INTRODUCTION

I am pleased to have this opportunity to testify concerning the Treasury Department's proposed regulations, first announced on January 11, establishing a so-called Asset Depreciation Range system, eliminating the reserve ratio test, and creating new full and half year depreciation conventions. In view of the repeated statements by high Treasury officials that these regulations will go into effect regardless of what is said or done at these hearings, I strongly suspect that all of us here today merely are participating in an elaborate charade. But I cannot believe that the Treasury Department and the Internal Revenue Service can continue to depart from their long history of professional, nonpartisan analysis of proposed tax regulations. And I am confident that any fair, public-spirited and impartial determination will conclude that these proposed regulations are the worst of two worlds—they are wrong as a matter of law and wrong as a matter of economic policy.

In view of the sizable permanent revenue loss that would result from the proposed

changes—estimated to be \$3 billion in fiscal 1972 and increasing to nearly \$5 billion annually by fiscal 1975—there can be no doubt that this artificial speeding up of the period over which a deduction for depreciation is permitted is, in reality, an adjustment in the corporate tax rate. Having failed to secure Congressional approval of his 1969 recommendation that the corporate income tax be reduced by 2 percentage points, the President is now seeking to achieve a business tax cut at least twice as large by the backdoor of liberalized depreciation. The authority to set tax rates, however, is a Congressional prerogative and not an Executive one—under whatever guise it may take.

Even if the revenue shortfall were not as great, the Treasury Department would be overstepping its authority by attempting to establish the proposed Asset Depreciation Range system. What is at issue here is the fact that the Treasury, acting under its own rule-making powers, has proposed departing from the long-established principle that the reasonable deduction permitted for depreciation must be taken over the "useful life" of the asset to the taxpayer. Instead, the Treasury arbitrarily has selected a range from "guideline" life of ± 20 percent over which an asset can be depreciated and leaves it to the taxpayer to choose whatever period may be best for him. Clearly, such a departure is beyond the scope of administrative rule-making.

There is also at issue here not only the question of whether the proposed course of action is the proper one for an economy that is suffering from 6 percent unemployment and continued softness in consumer spending but the dubious wisdom of creating a permanent special interest concession in an already fragile tax system.

THE LEGAL ISSUES

The United States Constitution provides, in Article 1, Section 8, clause 1, that "the Congress shall have the power to lay and collect taxes . . ." Historically, this has meant that the President not only has no power to impose new taxes, but he may not repeal existing ones, increase or decrease rates or exemptions or make any other substantial changes in the Internal Revenue Code. On many occasions in the past, Presidents have sought the power to adjust tax rates within specified ranges but to no avail. Congress has guarded its taxing power jealously and, except in the case of the Interest Equalization Tax, it has preserved that power for itself.

The Treasury Department now proposes to permit an arbitrary 20 percent shortening or lengthening of the useful life of an asset for depreciation purposes. That this represents a substantial change in the tax law is evidenced by the fact that it would result in annual revenue losses ranging from \$3 billion in fiscal 1972 to nearly \$5 billion by fiscal 1975. Furthermore, this special tax break follows Congressional action in 1969 to repeal the investment tax credit and a refusal to act on the President's proposal to reduce the corporate income tax by 2 percentage points. Yet the net effect of the Asset Depreciation Range system, it is interesting to note, is equivalent to a 4 to 6 percentage point reduction in corporate taxes. It would appear, therefore, that the Treasury Department is attempting to implement a policy of tax concessions to business that Congress recently has determined is unwarranted. What is most ironic about this "tax break" is that President Nixon, in seeking repeal of the investment tax credit, said in April, 1969:

This subsidy to business investment no longer has priority over other pressing national needs.

In the early 60's, America's productive capacity needed prompt modernization to enable it to compete with industry abroad. Accordingly, Government gave high priority to providing tax incentives for this modernization.

Since that time, American business has invested close to \$400 billion in new plant and equipment, bringing the American economy to new levels of productivity and efficiency. While a vigorous pace of capital formation will certainly continue to be needed, national priorities now require that we give attention to the need for general tax relief.

It is true that the present provisions of Section 167 of the Internal Revenue Code authorize the Treasury to permit a reasonable allowance for depreciation. It is also true that the Treasury is authorized to prescribe methods for determining a reasonable allowance. It is not true, however, that the Asset Depreciation Range system yields a reasonable allowance. Nor is it true that the Treasury Department has the authority to implement the proposed changes under its rule-making powers.

Historically, a reasonable allowance for depreciation has been determined by spreading the cost of a depreciable asset over its useful life to the taxpayer. Once having estimated the useful life, a taxpayer can elect any one of a number of methods for specifically allocating the allowance to different years within the period of useful life. The basic assumption remains, however—the cost of the asset is to be depreciated over its useful life to the taxpayer.

For 40 years, beginning in 1931 with the Treasury Department's first set of published guidelines for determining useful lives, it has become clearly established that in order for the allowance to be reasonable, depreciation had to be taken over the estimated useful life of the asset to the taxpayer. While the guideline lives have been revised and updated in light of actual replacement experience, first in 1942 and most recently in 1962, the concept of useful life was not abandoned. Why abandon it now?

No technical evidence has been presented to indicate that the 1962 guidelines are outdated.

There is no evidence that the 20 percent range selected by the Treasury Department is the proper one.

It hardly seems likely that the 1962 guidelines can be both too long and too short.

It is even less likely that each category of asset lives is outdated by the same 20 percent range.

There have been a number of occasions in the past when it was considered in the public interest to provide for exceptions to the principle of useful life. On these occasions, however, it was not the Treasury Department who implemented the changes but Congress. By specifically amending the Internal Revenue Code in the case of emergency defense facilities, grain storage facilities, and pollution control equipment, Congress has established ample precedent for the view that legislative authority is required before the historic concept of useful life can be abandoned.

The proposed Asset Depreciation Range system, the elimination of the reserve ratio test and the new full and half year conventions—as proposed by the Treasury—followed closely the recommendations sent to the President by his Task Force on Business Taxation. The Task Force strongly urged that a system of capital cost recovery—a system that bears no relation to economic income—be substituted for the present method of providing a reasonable deduction for depreciation and suggested that this could be accomplished by establishing an asset depreciation range system of ± 40 percent from the present guidelines. The Treasury Department's proposed ADR system incorporated all of the major recommendations of the Task Force but proposed a ± 20 range.

The Task Force stated, in a section entitled "Implementation of Recommendations,"

We recommend that the proposals discussed above be implemented by appropriate

amendments of the Internal Revenue Code. The proposals in section A for substituting in the case of machinery and equipment a system of cost recovery allowances for the present depreciation system involve some matters that have been dealt with under the present system by administrative procedures and regulations rather than by changes in the statute. For example, the reserve ratio test was formally introduced in Revenue Procedure 62-21, and, although our proposal for elimination of the test could be effected by administrative action, we strongly urge amendment of the statute to this end. *Moreover, since the shift from depreciation to cost recovery unrelated to the useful life concept does require amendment of the present law, we urge that all the matters covered in the recommendations which are related to such a shift be incorporated in the statute.* (Italics added.)

I do not believe that the mere difference in asset range between the Task Force's recommendation and the President's proposal is sufficient to justify the Treasury's view that these changes can be implemented by administrative fiat.

Despite the Treasury Department's claims, I find absolutely no basis in fact for the view that the 1962 revised guidelines, published as Revenue Procedure 62-21 is sufficient historical precedent for the Treasury to implement the proposed Asset Depreciation Range system on its own authority. In 1962 the Treasury Department sought to improve the procedure for determining a reasonable allowance for depreciation by updating guideline lives in conformity with actual replacement experience. True, taxpayers were permitted to shorten asset lives for the purpose of depreciating the cost, but only if they could thereafter demonstrate—through the reserve ratio test—that the shorter life was consistent with their actual replacement practices.

The proposed Asset Depreciation Range system, in marked contrast, abandons the historic principle of useful life and permits a taxpayer to select any life period within a range established arbitrarily by the Treasury Department. Under the ADR system, the deduction for depreciation will not necessarily bear any relationship to actual asset use. It is, as the President's Task Force described it, a capital cost recovery system, designed not to provide a reasonable allowance for depreciation but to improve the cash flow of corporations and, according to the President, hopefully to provide a small measure of fiscal stimulus. To replace the present law providing for a reasonable allowance for depreciation with a capital cost recovery system, obviously, requires specific Congressional authorization—not merely Congressional acquiescence in the Treasury's attempt to implement the proposed change under its own rule-making power. If that issue cannot be satisfactorily resolved here by the withdrawal of the proposed regulations then it will be decided in a court of law.

THE ECONOMIC ISSUES

The economic policy questions raised by the Treasury's proposed liberalization of depreciation are as proper a subject for the present hearings as the legal questions—and as serious. They are:

With only 75 percent of industrial capacity currently in use and a seven-year investment boom just having ended, is an investment stimulus really needed now?

With unemployment at 6 percent and consumer spending still somewhat sluggish, is a tax break to stimulate investment in plant and equipment the proper fiscal stimulant?

In terms of national priorities, is private capital spending a more pressing need or a more worthy candidate for tax concessions than public investment for improving state and local government infrastructure or increased spending on human resource programs?

If increased private capital spending is necessary now, is liberalized depreciation the most effective way to encourage such investment?

On all of these counts, the answer is definitely "no."

The main source of our present economic ills is not the moderate falling off in spending for new plant and equipment—as one might logically assume from the President's proposed remedy—but the reluctant consumer. There is still a lack of confidence, a lack of confidence reflected in a personal savings rate that continues to remain high, sluggishness in orders for consumer durables and industrial production and little demand for credit despite the precipitous decline in interest rates. Unfortunately, this lack of confidence seems to be justified by an unemployment rate that continues at or near an intolerable 6 percent. In the present situation, it should be obvious to even so recently a converted Keynesian as President Nixon that the most effective way to stimulate economic growth is to spur demand, to create markets for those goods and services that can be produced with existing facilities.

The most immediate and meaningful way for the federal government to create the necessary demand for what American industry is now capable of producing is to provide an additional 13 weeks of federally financed unemployment compensation benefits for the victims of President Nixon's economic game plan. Another meaningful solution is to create public service employment opportunities, a step the Senate took again on April 1, despite an earlier Presidential veto. And, finally the accelerated public works program would provide a more direct stimulus to employment and meet basic public needs.

These proposals would do more to stimulate economic activity than the proposed changes in depreciation allowances for business—and they have the added value of meeting basic human needs directly and not as the result of any "trickling down" effect.

According to the Treasury's own estimates of revenue loss, it is unlikely that the proposed changes in depreciation will have much of an impact now on aggregate demand—and it is now that we need the proper economic stimulus, not in 1976 when the ADR system's impact will be maximized. And while it is wrong to say that the economically appropriate amount of federal spending is reduced by an ineffective and irrelevant tax cut, it is safe to assume that, politically, it becomes more difficult to enact the necessary spending measures. This, then, is the added burden of the President's plan to cut business taxes.

The proposed changes in depreciation, it should be pointed out, are absolutely irrelevant as an effective antidote to recessions. Unlike the Nelson bill providing for public service employment and my own bill to extend unemployment compensation benefits, both of which are triggered into operation as counter-cyclical measures by a formula responsive to economic conditions, the ADR system would remain in effect in good times and bad. During booms, when investment is likely to be high naturally, the tax loss will be great and the inflationary impact of liberalized depreciation will be magnified. Hardly the proper economic prescription. During recessions, when investment falls off naturally, the tax savings to business will be small and there will be no counter-cyclical impact.

A related point about the adverse long-run impact of liberalized depreciation is that it will (1) tend to substitute more private investment for federal expenditures, since at full employment increased expenditures require higher taxes unless inflation is to result, and so a tax cut for business is likely to produce higher taxes for the rest of us and (2) tend to redistribute income in

the form of corporate dividends, and not necessarily result in much increased investment, since accelerated depreciation is not tied specifically to investment but to total capital. In contrast to the investment tax credit liberalized depreciation offers only a negligible incentive to increased spending on plant and equipment.

I must admit that I am hard-pressed to see why, with industry operating at about 75 percent of capacity, industrial production off, and consumer demand soft, the President chose now to attempt to stimulate investment by making it cheaper to install new equipment. As for modernization, it is important to keep in mind that we have just ended a seven year investment boom.

It seems somewhat ironic, indeed, that the very same President who urged the Congress to repeal the investment tax credit would propose this poor substitute. If the administration believes that stimulating business investment is the best way to get our faltering economy moving again—an assumption I am not prepared to accept it ought to propose doing just that directly and not through these sleight-of-hand changes in the depreciation rules. By any standard, the investment tax credit will produce more bang for every tax buck lost.

This brings me to another point about the proposed ADR system. Contrary to the President's January 11th announcement and Secretary Kennedy's accompanying statement, liberalizing the depreciation allowances does not merely defer taxes—it reduces them and in so doing it creates a sizable, permanent revenue loss. According to estimates by Professor Robert Eisner and the Treasury Department's 1970 study on depreciation changes, the revenue loss over the coming decade is likely to be in excess of \$33 billion. In the face of so many critical unmet social and human needs, should the federal government be spending \$33 billion of our tax dollars to buy some modernization of American industry? Is that what the call for a re-ordering of our priorities is all about? I think not.

CONCLUSION

In conclusion, these regulations are unlawful. Despite the so-called assurances that Secretary Connally has said he has received from certain Members of Congress, Congressional silence does not confer statutory authority where none existed.

These regulations are unwise. They would further erode the American taxpayer's confidence in the integrity of our internal revenue system. I urge you to withdraw them.

COMMON CAUSE,

Washington, D.C., April 9, 1971.

Re Proposed Reg. § 1.167(a) (11).

COMMISSIONER OF INTERNAL REVENUE,
Washington, D.C.

Attention: CC: LR:T.

On behalf of Common Cause I am submitting this letter, commenting on proposed Treasury Regulations § 1.167(a)-11 ("Asset Depreciation Range System"), urging their withdrawal, and hereby requesting that I be given an opportunity to comment orally at the public hearing to be held on May 3, 1971.

Common Cause's interest in the Treasury's proposals stems from four major concerns:

1. The Treasury's proposal to grant between \$3 and \$5 billion in annual income tax abatement to a small, Treasury selected segment of the taxpaying public, without Congressional direction or authorization, constitutes an illegal and unconstitutional arrogation of legislative power.

2. Massive tax reduction now for the exclusive benefit of business men and corporations investing primarily in machinery and equipment is inequitable, burdensome to the taxpaying public, uneconomic, and a gross misallocation of public resources, suggesting new governmental priorities that are counter to those publicly declared by the President

and Congress and to the best interests of the nation.

3. The proposed regulations flout the language and purpose of the income tax provisions of the Internal Revenue Code by presuming to authorize deductions for capital investments that have not been consumed in the production of income and, therefore, are not legally or factually an expense chargeable to income.

4. The Treasury's failure to disclose the data and studies which led it to propose sweeping changes in the depreciation system, and its failure to set forth the reasons and considerations leading to and supporting its proposals, make it difficult if not impossible for interested and affected persons fully to weigh the proposals and to comment completely and adequately, thereby violating the Administrative Procedure Act and the Due Process Clause of the Constitution.

A. The Treasury Proposals:

The Treasury proposals would change the law in four major ways: (a) they would permit some taxpayers to select a period over which to recover their investment in depreciable equipment (other than over the useful life of that equipment) which, in most cases, would allow them to deduct from income an unconsumed portion of a capital expenditure; (b) salvage value may be ignored in determining the basis on which to compute depreciation, thus permitting excessive current deductions in the guise of depreciation; (c) an arbitrary portion of each year's investment in asset improvements, capital by nature, may be treated as though a mere repair, and deducted as current expense from current income, although improvements are not repairs and not current expenses and (d) investments made at any time during the first half of a year may be treated as made on the first day of the year, and those made any time in the second half of the year may be treated as made at mid-year, thus permitting the acceleration of depreciation deductions to points in time even before the taxpayer has made his investment.

B. The Law and Administrative Arrogation:

Section 263 of the Code explicitly denies the deduction of capital investment, except as the Code otherwise expressly provides. Section 162 allows the deduction of current business expenses to make certain that the taxpayer is taxed only on net income. Section 167 permits the deduction for depreciation so that those capital expenditures (non-deductible under § 263) may become deductible as they are exhausted over time, thus providing a tax treatment consistent with that provided in Section 162 for other kinds of expenses.

From time to time Congress has explicitly permitted the expensing of certain capital expenditures, always in a clearly circumscribed fashion. It has authorized accelerated depreciation in certain instances. It has also provided, and withdrawn, special tax credits for investment. All exceptions which Congress had made are premised on the existence and acceptance of a fundamental principle, embodied in the statute, its history, and in the decisional law, that assets are to be depreciated over a period estimated reasonably to represent their useful life to the taxpayer who employs them. *Only Congress may deviate from that principle.*

A complete analysis of the law and its history, current procedures, and the Treasury's proposed illegal deviation therefrom, will be submitted at an early date, prior to the public hearing.

C. The Economics of the Proposals:

A recently completed analysis of the economic impact of the Treasury proposals will be submitted to you shortly. It will be apparent that A. D. R. would have minimal stimulative effect in the short run, and even less in the long run; that greater stimulation

of the economy could be achieved by providing encouragements to consumption or by a temporary investment tax credit; that in the long run A. D. R. would cause a shift in investment away from housing—thought to be a major national priority—into industrial equipment; that A. D. R. will provide disincentives to inefficient firms to modernize, and it will reward those who, contrary to present law, have failed to retire assets as quickly as their tax depreciation schedules implied that they would; that A. D. R. would give an annual tax abatement to high income taxpayers in aggregate annual sums equivalent, for example, to the President's proposed total annual allocation for elementary and secondary education, equivalent, too, to at least \$45 per person in the United States.

D. Fairness and Equity:

1. Tax reduction, even when enacted by Congress, should not be directed primarily to high income taxpayers, as A. D. R. is. It is unfair to allow those who invest in equipment to pay tax on a base that is smaller than their real net income, when others are required to use their net income as the base. Deductions for capital investment, not consumed in the production of income, result in a tax base that is less than net income. As unfortunate as that would be if Congress were to do this, it is intolerable when the Treasury—without Congressional warrant—creates the inequity.

2. Procedural fairness—mandated in the Administrative Procedure Act and the Due Process Clause of the Constitution—requires that affected and interested persons be given an opportunity to be heard when new rules are to be adopted by government agencies. This is an especially significant requirement when the new rules propose to give away \$3 to \$5 billion a year to only a small, Treasury selected group of people. The opportunity to be heard is an illusory one unless the rule making agency, here the Treasury, presents its data and reasons, and gives the public an opportunity to examine and evaluate them. That has not been done in this case. Common Cause calls on the Treasury now to disclose its data, its studies, and its reasons for the proposals in question.

Respectfully yours,

BERNARD WOLFMAN.

COMMON CAUSE

A LEGAL ANALYSIS OF THE ADR SYSTEM PROPOSED BY THE TREASURY DEPARTMENT

Summary of analyses

I. The Treasury's Proposal for an ADR system would bring about a major change in the basic principle of depreciation that is contrary to, and unauthorized by, the Internal Revenue Code of 1954.

It would introduce into the income tax a capital cost recovery system for deducting expenditures for machinery and equipment over an arbitrary period of years without regard to the useful life of the assets in the taxpayer's business.

II. The Proposed Change in the concept of depreciation is

A. Extremely costly, involving a revenue loss of around \$40 billion in the next decade.

B. Highly discriminatory among industries, and among firms in the same industry

C. A subsidy to Treasury selected business taxpayers that is contrary to recent Congressional actions.

III. The Proposed Change in the system of depreciation is completely contrary to the requirements of the Internal Revenue Code.

It is taken without any Congressional authorization.

It represents an unwarranted and unprecedented arrogation of power on the part of an administrative agency.

A. The proposed ADR system disregards the language and purpose of the income tax pro-

visions by seeking to authorize deductions for capital investments before those investments have been consumed in the production of income.

B. The ADR system abandons the principle of depreciation over the estimated useful life of an asset in the taxpayer's business—a principle which has been deeply embedded in the statutory history of section 167, consistently reflected in its administration by the Treasury, and reiterated on numerous occasions by Congress and the Judiciary.

C. The ADR proposal would permit more rapid acceleration of the write-off of capital expenditures than is authorized by the Internal Revenue Code.

IV. Congress has given no authority to the Treasury Department to abandon the fundamental principles of the depreciation system and to replace them with the proposed new ADR system. The assertions of authority claimed by the Treasury Department are unfounded.

V. The Treasury's administrative action in 1962, regarding depreciation guidelines and the reserve ratio test, fully accepted the statutory principle of useful life depreciation but sought improved methods of administering and applying that concept.

The 1962 action is therefore no precedent for this Treasury proposal—in fact, it is completely polar to the Treasury's current proposal, which rejects the statutory principle and substitutes a totally new and unauthorized system.

All prior administrative action of the Treasury in the field of depreciation is also at variance with the change now proposed.

VI. All prior statutory precedents clearly demonstrate that any departure from the Code's requirements for the deduction of capital expenditures, and any deviation from the principle of useful life depreciation, must come through specific legislative enactment and cannot be made administratively by the Treasury.

VII. The proposed change in the depreciation system is presented by the Treasury without any supporting data as to expected lives of machinery and equipment to justify the arbitrary and shortened capital cost recovery periods to be granted to taxpayers.

In fact, all the evidence available is clearly to the contrary, indicating that expected lives are considerably longer than the proposed recovery periods.

VIII. The proposed change in the principles underlying the depreciation system involves issues of major economic importance for the United States.

The proposed change rests on economic premises considered thoroughly unsound by many experts.

The proposed change represents judgments on priorities on the use of public funds involving billions of dollars—judgments that are directly contrary to recent Congressional action and that are disputed by many segments of American public opinion.

These aspects of the proposed change underscore the fact that such a decision is for the Congress to make, and may not be made by an administrative agency.

The Treasury's Proposal for an ADR system would bring about a major change in the basic principle of depreciation that is contrary to, and unauthorized by, the Internal Revenue Code of 1954.

It would introduce into the income tax a capital cost recovery system for deducting expenditures for machinery and equipment over an arbitrary period of years without regard to the useful life of the assets in the taxpayer's business.

Section 167 of the Internal Revenue Code permits taxpayers to deduct from income a "reasonable allowance" for the exhaustion, wear and tear, and obsolescence of their business assets. As this section has been constantly interpreted over the past six decades, annual depreciation allowances must

be computed according to a "reasonably consistent plan" and must be spread over the useful life of the asset in the taxpayer's business. In place of this rule, the ADR proposal would introduce a system of capital cost recovery for expenditures on machinery and equipment that is unrelated to depreciation accounting as it is required by the Internal Revenue Code, as it has been known to businessmen and accountants, and as it has been understood by the Congress, by the courts, and in the past by the Treasury itself. Under the ADR system, taxpayers would be free to elect any cost recovery period within a "range" running from 20% shorter to 20% longer than the "guideline lives" introduced by the Treasury in 1962.¹ All testing methods followed under the present depreciation rules to substantiate the justification of the taxpayer's claim to apply the present guidelines and the relationship of those lives when used to the actual useful life in the taxpayer's business would be abolished.²

The amount of the depreciation deduction allowable under section 167 of the Code would become a matter of taxpayer election. Annual cost recovery allowances would be related neither to the useful life nor to the salvage value of the assets in the taxpayer's business. Taxpayers would be permitted to claim deductions for depreciation that has not occurred, to spread deductions over a period that does not correspond to the assets' actual usefulness to the taxpayer, and to write-off the entire cost of assets long before they are retired from the taxpayer's business. The allowances permitted by this cost recovery system would thus not represent the exhaustion, wear and tear and obsolescence of the taxpayer's assets in his business as required by the Internal Revenue Code. The concept of "depreciation" would be scrapped and instead, without any authorization whatsoever, a cost recovery system introduced.

Experts in the field of depreciation accounting, including many proponents of the change, have recognized that this unauthorized change is a fundamental departure from the concept of "depreciation" over an asset's useful life in the taxpayer's business. The President's Task Force on Business Taxation, which recommended the adoption of a system of capital cost recovery identical to the ADR system in all but several particulars, made the following observations in its Report:

"We recommend . . . the adoption of a simplified and liberal cost recovery allowance structure in place of the useful life depreciation allowed in existing law.

"Our recommendations [would] . . . [s]ubstitute a capital cost recovery allowance system for the present system of deductions based on the useful life of the property.

"Cost recovery periods should be prescribed without reference to any estimates of average "useful life" of the property in the group. Estimates of "useful life" are relevant only in a cost recovery system which seeks to particularize cost recovery to the circumstances of each taxpayer.

"A reserve ratio test, or any similar measure for comparing the cost recovery period used for tax purposes with the actual period of retention of assets by the taxpayer is clearly irrelevant under the conventionalized cost recovery system we have recommended."³

The Report recognized that a capital cost recovery system involved "basic changes"⁴ in the income tax, acknowledged that its proposal was not authorized by the present law and could not be adopted by the issuance of regulations, and recognized that it would require additional enabling legislation.⁵ Essentially the same proposal was advanced by the American Bar Association Section on Taxation in 1969, and was endorsed by its House

Footnotes at end of article.

of Delegates in 1970. The ABA's recommendation also candidly acknowledged that the change would require legislation.^{5a}

Tax Management, a tax service for lawyers, recognized that a basic change in concept was being proposed:

"The ADR System does not, and is not intended to, reflect the diminution in the value of assets resulting from the passage of time, use or obsolescence. Rather, the System is designed to replace traditional concepts of depreciation with a standardized method of cost recovery. Such conventionalized capital allowances permit a taxpayer to recover his investment in assets over a standard period of time, without reference to his own or industry average retirement practices and replacement patterns."⁶

Leading advocates of capital cost recovery have recognized the basic inconsistency between their proposals and depreciation under the Internal Revenue Code.⁷ The Chamber of Commerce has said:

"In line with the Chamber's position that a permanent capital cost recovery system is necessary, in 1970 the President's Task Force on Business Taxation urged as a part of its recommendations that a capital cost recovery allowance system be substituted for the outmoded system of deductions based on the useful life of property. The Task Force also recommended that the reserve ratio test be eliminated. The latter position has also been advocated by the National Chamber for many years.

"The National Chamber views the proposed regulations on the ADR System as a major step toward achieving the goals of an adequate cost recovery system of depreciation."⁸

The Tax Council is quoted as saying: "The regulations create a 'new system' for business deduction of capital expenses."⁹

The Treasury itself, in a study made public by Secretary Kennedy in July, 1970, noted that a capital cost recovery system would be an arbitrary and inequitable departure from present practice.¹⁰

The Treasury's desire to impose the ADR system should not obscure the fact that it represents a complete change in law and practice. It is not a simple alteration in administration, not "just another administrative action." It is not merely a "refinement" in the concept of useful life depreciation. It is a sweeping revision of section 167 of the Internal Revenue Code that is contrary to the section's language, its purpose, its statutory history, its judicial interpretation, and its administration over the last six decades. The proposal of the Treasury to introduce this profound change by its own administrative fiat is as unprecedented as it is unauthorized.

II.

The Proposed Change in the concept of depreciation is:

A. Extremely costly, involving a revenue loss of around \$40 billion in the next decade;

B. Highly discriminatory among industries, and among firms in the same industry;

C. A subsidy to Treasury selected business taxpayers that is contrary to recent Congressional actions.

A. The Proposed Change is Extremely Costly: By the Treasury's own estimates, the ADR system would through tax reduction for some taxpayers produce revenue losses of \$3 billion in fiscal year 1972, \$4.7 billion in 1976, and \$3.8 billion in 1980, or approximately \$40 billion in the next ten years.¹¹

The proposal and its consequent tax reduction are thus no routine administrative step. The amount involved is almost equal to one-third of the entire Budget deficit for the fiscal year 1972. The amount ranks in revenue cost above each of the special revenue sharing plans of the President; it ranks in its revenue cost with the new welfare proposal of the President. It is more than the

entire amount of revenue customarily obtained through the estate and gift taxes.

We are thus dealing with a tax reduction whose revenue cost is at the level of the first magnitude in fiscal importance. It is this costly step—paralleling in revenue cost only the most important expenditure programs passed by the Congress—that the Treasury proposes to take by its administrative fiat.

B. The Proposed Change is Highly Discriminatory:

1. Among industries, favoring those with investment in equipment and especially longer lived equipment;

2. Among firms in the same industry, favoring those with sluggish rates of equipment replacement—who have been taking excessive depreciation—as compared with technically innovative companies;

3. In every industry, in favor of large firms as against small firms with respect to investment in identical equipment.

The tax reduction brought about by the proposed change in the concept of depreciation is highly inequitable and discriminatory. The tax reduction will go only to a Treasury selected portion of the taxpaying public. The Treasury selection will favor some industries over other industries. It will favor some taxpayers within an industry over other taxpayers in the same industry. In every industry it will favor large firms over small firms. For example:

1. As among industries: The proposed ADR system would favor industries investing primarily in machinery and equipment. Since the benefits of the tax reduction go only to investments in machinery and equipment, those industries, with relatively little such investment e.g. the service and housing industries, will not obtain the tax reduction. Those industries, with large equipment investments, such as chemicals and steel, and the like, are instead selected by the Treasury to get this tax benefit. Even among the industries investing heavily in machinery and equipment, the Treasury picks as its favorites those industries which invest in longer-lived assets, with the advantage apparently peaking at around actual lives of 20 years. Indeed, in a more objective moment, the Treasury itself observed in July, 1970:¹²

"[Capital cost recovery] necessarily induces distortions of the pattern of private investment . . . Ironically, the distortions are most severe precisely in those . . . industries which are capital intensive but which differ among each other in the expected useful lives of the assets they employ."

It is for Congress—not the Treasury—to make tax reduction and expenditure choices of this character and magnitude.

2. As among firms in the same industry: The proposed ADR system would favor those businesses within an industry which have the slowest rates of equipment replacement and would choose them for a tax reduction. It would not give any benefit to those businesses which are technically innovative and which therefore have a rapid turnover of equipment. Every taxpayer in the industry can have the same cost recovery period—the technically innovative company that actually replaces its assets in that period and the sluggish company whose replacement practices are far slower, does not replace in that period, and whose asset lives are much longer. But it is the latter to whom the Treasury offers tax reduction—since they will be allowed to write off their costs of equipment over the same period as the innovative company. Since the cost recovery period may be an actuality for the innovative company, it does not receive a tax reduction. Since the cost recovery period is a fiction for the sluggish company, it receives a tax reduction—such is the process of Treasury selection for tax reduction under this proposal. Indeed, if an especially innovative company believes its replacement policies are even faster than the cost recovery period and

wants to use a shorter life, it must prove that claim by reference to its actual experience. But the most sluggish of companies can base its cost recovery on fictions and totally dispense with actual experience.¹³

Again, in a more objective moment, the Treasury saw the injustice in such a proposal. In July, 1970, the Treasury itself observed:

"There would appear to be no economic principle by which to justify giving an investment incentive to the former group [with slower replacement policies] and a disincentive to the latter [with rapid replacement policies] . . . [I]f some business taxpayers are able to justify particulated [sic] tax lives, in the interests of tax system neutrality with respect to private investment decisions, all taxpayers should do so."¹⁴

An ADR system within an industry would favor businesses that have taken and are now taking excessive depreciation deductions—those businesses which are not complying with the depreciation procedures instituted in 1963 and which were required to comply by the end of a designated period established in 1965. Under the existing rules, business taxpayers are permitted to use the guideline lives only if they are moving to make their actual replacement practices correspond to those guideline lives at the end of the compliance period.

Some businesses within each industry are living up to this requirement so that their actual replacement practices conform to the existing guidelines. But other businesses have not altered their replacement practices and are content to use assets for periods considerably longer than the guidelines. These latter taxpayers have been enjoying tax benefits which, under existing rules, they should now begin to lose because their depreciation deductions are excessive in the light of their actual business operations. But it is these very businesses that the Treasury now proposes to excuse from compliance with existing rules.

Instead of exacting compliance with the guideline lives, the Treasury is selecting these non-complying businesses for tax reduction. It is offering them the elective use of the guideline lives and the shortened cost recovery period without requiring them to earn those lives through actual replacement practices. It is giving no tax reduction to those companies who have actually earned the reduced guidelines now made elective.

Thus the ADR proposal rewards most generously those taxpayers who have been most delinquent in conforming to law.

The Treasury has itself indicated the very large discriminations that result from such a policy.¹⁵ Thus, a thirty percent variance between the cost recovery period and the actual tax life can produce a tax benefit equivalent to around a 15% reduction in effective tax rates on the income from the assets. For example, if the cost recovery period is seven years and firm A actually retires its assets on a seven year cycle while firm B retires its assets on a ten year cycle, firm A's tax rate on income from its assets remains 48% but firm B's rate will, when it is allowed to elect a cost recovery period that is a fiction for it, drop from 48% to around 41%. Under the ADR proposal, with its 20% reduction in guideline lives and its abandonment of the reserve ratio test, variances between the cost recovery period and actual lives can run to much more than thirty percent. The result can mean tax reductions bringing the effective tax rate down to a 35% to 40% range. The discrimination can be expressed another way: for some taxpayers—firm A in the above example—the ADR provides no benefit; for others—firm B—the ADR is equivalent to granting a 14% investment subsidy; for still others, with greater variance between the cost recovery period and actual lives, the ADR means granting much larger investment subsidies.

3. As among taxpayers of different size: In every industry, for an identical investment, the ADR system would favor larger firms as against small business. It would favor the large corporation over the small corporation, the large individually owned business over the small proprietorship. This discriminatory selection results from the Treasury's decision to make the incentive and tax reduction benefits of its new concept turn on the use of tax deductions, so that the higher the tax bracket of the taxpayer, the greater the tax benefit he receives. The investment credit, granted by Congress in 1962, being the same credit for everyone, large or small—7% of the investment—did not have this discriminatory effect. But the Treasury has chosen a system to replace depreciation whose benefits inevitably must favor the large company over its smaller competitor.^{15a}

Again, in a more objective moment, the Treasury saw the sweeping effect of this change on industrial investment in the United States. In July, 1970, it said:

"If the reserve ratio test is abandoned and replaced by a system of arbitrary capital allowances, either by amendment of the Internal Revenue Code or by new regulations, the Congress and Treasury Department would be thrust into the role of arbiter of industrial asset replacement policy. By its determination of 'the' useful life of particular assets, and assuming prescribed lives would be set intentionally low, the government would be affecting investment incentive. To the extent the economic circumstances in which taxpayers find themselves dictate they should employ asset replacement policies that yield above average actual useful lives within their industrial (guideline) classification, these taxpayers will be benefited by the use of arbitrary capital allowances; . . ."¹⁶

There is nothing in the Internal Revenue Code that permits the Treasury to make itself the "arbiter of industrial asset replacement policy." Yet it is this power which the Treasury is claiming under its ADR proposal.

In sum, excepting those few taxpayers for whom the ADR cost recovery period happens to approximate the actual depreciation of their assets, the proposed ADR system will grossly distort income tax accounting. For some taxpayers the resulting tax reduction will be small, for others large, for others very large. This arbitrary bestowal of benefits will operate perversely, giving the greatest bounties to the sluggish firms as against the innovators, to the firms in non-compliance with present law as against the complying firms, to the large competitor as against the small competitor. Favored businesses, in capital intensive industries, in high tax brackets, which invest in long lived assets, will pay income tax on a base that is far smaller than their real net income. The ADR benefits would thus be distributed among taxpayers arbitrarily and unfairly, in a manner completely inconsistent with the concepts of tax equity and fairness that are embedded in the present depreciation rules. Such disparate treatment would be unfortunate even if it were introduced by the Congress. It is this disparate treatment that the Treasury, with no Congressional warrant, seeks to introduce by administrative fiat.

C. The Proposed change is a subsidy to business taxpayers for the acquisition of machinery and equipment that is contrary to recent Congressional action in 1969 which:

1. Eliminated the investment tax credit for machinery and equipment and expressly stated that the decision as to future alternatives was to be made by Congress; and

2. Refused to reduce the corporate income tax rates by 2 percentage points whereas the ADR proposal amounts to a reduction of from 4 to 6 points.

The proposed ADR system is designed to create a new incentive to investment in machinery and equipment. The Treasury has introduced the plan only one year after Congress, in the Tax Reform Act of 1969, expressly repealed the seven percent investment credit, a similar capital incentive, on the grounds that special tax incentives for investment in machinery and equipment were no longer needed. Except for the distortions and inequities described above, the ADR system in some of its important aspects is modelled on the investment credit. The ADR seeks to serve the same investment objectives, it involves a comparable annual subsidy to business taxpayers, and it applies to the same kinds of machinery and equipment.¹⁷ In light of these similarities, it is obvious that the Treasury is seeking to reestablish, in substance if not in form, an investment incentive that Congress expressly repealed scarcely over a year ago.

Clearly, the authority to reestablish any investment incentive that has been rejected by the Congress does not rest with the Treasury. Indeed, in repealing the investment credit, Congress stated expressly that the prerogative to choose alternatives in the future was to remain with Congress:

"Even though an investment credit may have been useful in the past . . . it is not clear that the same type of problem will be faced in the future . . . If the need should in the future arise for a further stimulant to investment, the Congress will then be free to consider various alternative types of treatment."¹⁸

Congress had exercised this prerogative in adopting the investment credit in 1962, and had actually rejected proposals offered at that time to increase the rates of depreciation. The Senate Report explained why an investment credit would be desirable and then added:

"Finally, the statement sometimes made that the credit is a subsidy overlooks the fact that other alternatives such as faster depreciation, for example, share the same characteristics of giving the investor in equipment a monetary reward beyond what he would receive on the basis of realistic accounting. The credit, however, is preferable to higher depreciation charges because the latter tend to distort income accounting and produce higher costs for book purposes, which frequently could be expected to result in higher product prices."¹⁹

In the Tax Reform Act of 1969, Congress also refused to adopt the suggestion of the Treasury to reduce the corporate income tax rates by two percentage points. The Congress made no reduction in the corporate income tax rate, and chose only to reduce individual income taxes. It thus disagreed with the Treasury's priorities as to tax reduction. But the \$3-5 billion annual tax reductions now to be granted by the Treasury under the ADR system will go overwhelmingly to corporate taxpayers. The tax reduction under the ADR system ranges between an 8 to 12% annual cut in corporate tax revenues. It is the equivalent overall of a reduction in the corporate tax rate of between 4 to 6 percentage points. This is a reduction 100 to 150% greater than the Treasury suggested the Congress adopt in 1969, and which the Congress refused to adopt.

The Treasury thus persists in seeking to do by administrative fiat what it could not persuade the Congress to do—indeed to do far more than that. For it seeks to bring about on its own, without legislation, a greater reduction in the corporate tax burden that it had unsuccessfully sought in Congress and a reduction achieved through the device of an incentive to investment although the Congress has decided that the tax laws should not contain such an incentive.

Moreover, the entire thrust of the Tax Reform Act of 1969 was to reduce or eliminate

preferences under the income tax. Yet under the ADR system the Treasury is seeking to introduce by administrative action a new tax preference—a tax preference more costly and more inequitable than those which Congress legislated against in 1969.

III

The proposed change in the system of depreciation is completely contrary to the requirements of the Internal Revenue Code.

It is taken without any Congressional authorization.

It represents an unwarranted and unprecedented arrogation of power on the part of an administrative agency.

A. The proposed ADR system disregards the language and purpose of the income tax provisions by seeking to authorize deductions for capital investments before those investments have been consumed in the production of income.

Section 263 of the Code denies deductions for investments in machinery and equipment, except as the Code otherwise expressly provides.^{20a} Section 162 allows deductions for current business expenses, to insure that the taxpayer is taxed only on net income. Section 167 permits current deductions for annual depreciation, so that capital expenditures, which are not deductible under section 263, may become deductible in annual segments as the investments they represent are exhausted over time. Section 167 thus provides tax treatment consistent with that provided by section 162. Together the two sections represent the system of deductions permitted by the Code, and any departure from that system is prohibited by section 263.

The technique employed at present and in the past under section 167 to conform with the mandate of section 263 has been to spread the deduction for depreciation of an asset over its actual useful life in the production of the taxpayer's income. Indeed, depreciation over an asset's actual useful life is the only way the deduction permitted by section 167 for investment in machinery and equipment can be made compatible with the express limitation of section 263.

Deviations from such a system of useful life depreciation would permit an unauthorized capital expenditure deduction, to the extent that annual allowances exceeded the actual depreciation of the asset. The obvious import of the explicit prohibition of section 263 against such a deduction, which dates from the earliest revenue acts, is that no exceptions to this requirement, other than those specifically enacted by Congress, should be countenanced.

The ADR system controverts the language and purpose of section 263, and completely obliterates the carefully maintained distinction in the Code between deductible current expenses and nondeductible capital expenditures:

1. The ADR proposal in its cost recovery concept, would permit most taxpayers to elect and use a capital cost recovery period, over which to spread the cost of their assets, that is shorter than the actual useful lives of those assets. It would thus allow for each year in that period a deduction from income for an unconsumed portion of a capital expenditure—i.e., it would, contrary to section 263, and without warrant under section 167, give a deduction for the part of that asset actually consumed in a given year and in addition a deduction also for a part of the asset not consumed in that year but to be consumed in a later year. For tax purposes the ADR proposal artificially telescopes deductions for the use of the asset into an arbitrarily short period, though the actual consumption of the use of the asset does not fall into that period. The Treasury cannot, under section 263, permit a capital expenditure for an item that will last 15 years to be expenses all in one year; equally it cannot

permit the item to be expensed over 8 years or 10 years. The conflict with section 263 is equally present in both situations.

2. Other aspects of the ADR proposal are also violative of section 263. Under these aspects the proposal would:

a. permit an arbitrary portion of each year's investment in capital improvements, which under present law must be added to the value of the improved asset and depreciated with it, to be treated as a mere repair and to be deducted as a current expense.

b. ignore salvage value in determining the basis on which to compute depreciation, thus permitting excessive current deductions in the guise of depreciation.

c. introduce a new half year convention, whereby investments made at any time during the first half year may be treated as made on the first day of the year, and those made at any time during the second half of the year may be treated as made at midyear, thus permitting depreciation of assets even before the taxpayer has acquired them or incurred their cost.

All of these elements of the ADR system work together to accelerate depreciation allowances and afford, contrary to section 263, an annual expense for a capital expenditure in excess of the consumption of the asset in the years in which the deduction is taken.

The Treasury once before issued a regulation that purported to convert a nondeductible capital expenditure into a deductible current expense. The regulation permitted companies to deduct drilling and development costs for oil wells as ordinary and necessary business expenses, and the rule remained on the books 27 years before its validity was questioned. But in *F. H. E. Oil Company v. Commissioner* 147 F. 2d 1001 (5th Cir. 1965), a federal court of appeals held that the deduction conflicted with the express prohibition in the (identical) predecessor to section 263, and that the regulation therefore was invalid. The decision was subsequently modified, after Congress passed a joint resolution approving the regulation, on the ground that the statute's reenactment over the 27 year period had incorporated the rule in the statute.²⁰ But the original holding of the case has never been impaired. The principles underlying that decision undermine the validity of the Treasury's currently proposed regulation even more than they undermined the regulation held invalid in the *F. H. E. Oil Case*, since the Treasury seeks unilaterally to overthrow a system that has been fundamental to the income tax for a period far greater than 27 years.

B. The ADR system abandons the principle of depreciation over the estimated useful life of an asset in the taxpayer's business—a principle which has been deeply embedded in the statutory history of section 167, consistently reflected in its administration by the Treasury, and reiterated on numerous occasions by Congress and the Judiciary.

There can be no doubt that an election to apply the ADR system will produce erroneous estimates of useful lives for all but a very few taxpayers. In fact, if all taxpayers elect the ADR system, the majority will be electing unrealistically short asset lives since the longest lives falling within the industry asset depreciation ranges are approximately equal to the average asset lives for machinery and equipment in most industries—i.e., it is likely that about half of the taxpayers within an industry have assets with actual useful lives that are above the top of the range of the ADR lives. (See Part VII of this statement.) Even in situations where accurate estimates of useful lives must be made for other purposes, the proposed ADR regulation specifically directs the taxpayer to ignore those estimates in electing his cost recovery period. Thus, when machinery is leased to the taxpayer for its period of use-

fulness, the regulations direct the taxpayer to ignore the term of the lease in selecting an ADR life. Public utilities are specifically permitted to select ADR lives that do not produce accurate estimates of depreciation for rate-making purposes. And taxpayers whose assets have a significant resale value at the end of their useful lives must still make accurate useful life estimates in order to calculate salvage value, but are specifically directed to ignore this useful life estimate and salvage value in calculating annual depreciation.

The abandonment of the useful life principle is an unprecedented and illegal departure from the requirements of section 167. The assertion that "The ADR system does not do away with 'useful life' [but] simply reinterprets that phrase in today's world," made recently by proponents of the ADR system,²¹ is founded on an inaccurate reading of the statute's history and administration over the past sixty years. The concept of useful life depreciation was clearly defined in the earliest revenue acts, and has been consistently reiterated by the Treasury, by Congress and by the courts. There has been—until this proposal—no erosion of the principle, and no confusion about its meaning. Indeed, the principle has been inserted in numerous provisions of the Code in contexts that permit no other interpretation than that the phrase meant the useful service life of an asset in the taxpayer's business or in the production of his income.

A detailed analysis of the history of the section is included in Appendix A to this statement. The following is a summary of the statutory and judicial history described therein. The administrative history is considered in Point V of this Statement.

In the Excise Tax Act of 1909, in the revenue acts of 1913, 1916 and 1918, and in the Treasury Regulations issued thereunder, references in the depreciation sections to the asset's "use," its "useful life," and its "useful life in the taxpayer's trade or business," recur repeatedly.²² The predecessor to the presently existing regulation, which elaborated on the general formula of useful life depreciation, was promulgated in 1919, and has remained in effect, in substance, ever since. It provided:

"The proper allowance for . . . depreciation . . . is that amount which should be set aside for the taxable year in accordance with a consistent plan by which the aggregate of such amounts for the useful life of the property in the business will suffice, with the salvage value, at the end of the useful life to provide in place of the property its cost . . ."

This regulation was paraphrased by the Supreme Court in 1927 in a much cited opinion by Mr. Justice Brandeis, *United States v. Ludey*, 274 U.S. 295, 300-01 (1927), and has since become the standard formulation.

The reenactment of the early acts with this and similar regulations in effect, the fact that these regulations were issued contemporaneously with the enactment of the first statutes, and the fact that the regulations are longstanding, all fix this conception of useful life depreciation in the statute as surely as if the term had been expressly defined in the statute itself. Nothing has occurred since the passage of the first acts, in the Judiciary, or in Congress, or in the Treasury to alter this well established conception. On the contrary, the concept of useful life has been consistently reinforced.

In 1954 Congress inserted the term "useful life" in several sections of the Code for the first time. "Present law," the House Report said, permits a depreciation deduction for the wear and tear of property "over the years it is used in a business." In the light of this interpretation, Congress added new provisions permitting taxpayers to accelerate the depreciation of assets with "useful lives" of three years or more, and authorizing the

Treasury to enter into "written agreements" with taxpayers as to the "useful life" of their depreciable property. The latter provision specifies that useful life estimates would depend on the "facts and circumstances" in each taxpayer's business.

Also in 1954, Congress considered and explicitly refused to adopt a special "10 percent leeway rule" governing the estimation of useful lives. The provision would have established a "range" of tax lives, running from 10 percent below to 10 percent above a Treasury determination, within which taxpayers would be immune from an IRS audit. The rejection in Congress of a rule strikingly similar to the proposed ADR system is in sharp contrast with the Treasury's assertion of authority to establish similar ranges resting on 20 percent tolerances.

In 1956, the Treasury defined the term "useful life" elaborately in a new regulation is "the period over which the asset may reasonably be expected to be useful to the taxpayer," and enumerated a list of factors that would vary from taxpayer to taxpayer which should be taken into consideration in determining the reasonableness of useful life estimates.

In 1960, the Supreme Court decided two cases in which the definition of "useful life" was at issue. In *Massey Motors Inc., v. United States*, 364 U.S. 92 (1960), the Court held, at the instance of the Treasury, that:

" . . . the reasonable allowance for depreciation must be calculated over the estimated useful life of the asset while actually employed by the taxpayer.

" . . . Useful life is measured by use in a taxpayer's business, not by the full abstract economic life of the asset in any business."

This case arose before the promulgation of the Treasury's 1956 regulation, so the Court's interpretation rested solely on the statute's prior history. In the companion case of *Hertz v. United States*, 364 U.S. 122 (1960), a similar case involving tax years after the 1956 regulation was promulgated, the Court made similar statements on the authority of the Regulation but noted that the regulation itself was valid only insofar as it carried "out the fundamental concept of depreciation . . . as will effectuate the recovery of cost over the period of useful life."

In two provisions of the Code enacted after the Treasury's 1965 Regulation, the availability of substantial benefits to investors in depreciable property turns on the meaning of the term "useful life." In these provisions, Congress was obviously aware that the term "useful life" meant the useful period of service in a taxpayer's business, and used the term in this precise sense to limit the amount or availability of a particular investment incentive.

Section 179 of the Code, enacted in 1958, provides for an additional 20% depreciation in the first year of an asset's use. The section applies only to assets with "useful lives" of six years or more, and the House Report accompanying the measure indicated that the limitation referred to "useful lives of assets in the hands of the taxpayer."

The seven percent investment credit, while it was in effect, could not be used for property with a "useful life" of less than four years, could only partially be used for property with a "useful life" of from four to eight years, and was only fully available for property with a "useful life" of more than eight years. The Committee reports deal with the definition of "useful life" at considerable length:

"The percentage of investment which the taxpayer may take into account varies to some degree with the expected useful life of the property in his business."

"The estimated useful life is to be determined with reference to the useful life in the hands of the taxpayer. Thus, if the taxpayer acquires used [investment credit] property without a remaining useful life of three

years in his hands, such property will not qualify regardless of the original estimated useful life to the previous owner . . . The estimate of the useful life is to be based on the facts and circumstances known on the date the asset is placed in service."

It's obvious that the availability of these tax incentives was never intended to turn on arbitrary tax lives elected by the taxpayer and having no relation to the actual service lives of his assets. And yet, this is exactly the procedure the ADR system purports to authorize.

C. *The ADR proposal would permit more rapid acceleration of the write-off of capital expenditures than is authorized by the Internal Revenue Code.*

The ADR proposal would clearly accelerate the rate at which depreciation deductions could be claimed. The Treasury recognized in its study on Tax Depreciation Policy Options, released in July, 1970, that a "primary motive of proponents of" capital cost recovery "is to achieve acceleration of tax depreciation."²³

This attempt by administrative action to grant more rapid acceleration of depreciation is completely inconsistent with the express terms and purpose of the statutory provision authorizing the use of accelerated methods and rates.

These provisions, which were introduced in 1954, were carefully and specifically limited to prevent taxpayers from accelerating their depreciation deductions too quickly. Section 167(b) authorizes depreciation allowances calculated according to any one of four methods.

Subsections (b) (1), (b) (2), and (b) (3) of section 167 authorize the use of the straight line, double declining balance, and sum-of-the-years-digits methods of depreciation accounting.

Subsection (b) (4) authorizes the use of any other "consistent method," provided the aggregate of the annual allowances produced to date by that method for any given year during the first two-thirds of the asset's useful life are not greater than those produced to date by the double declining balance method authorized under subsection (b) (2). The thrust of the section is to permit any consistently applied method of depreciation which does not produce faster write-offs than the methods explicitly approved in the statute.

The House Committee Report makes clear that Congress desired to limit not merely the use of certain methods or rates, but the annual amount of capital cost recovery that those methods and rates, when applied to the useful life of the asset in the taxpayer's business, would produce:

"[T]he proposals contained in [the] bill do not go as far in the direction of accelerated depreciation as the treatment in some other countries, nor as far as some of the proposals which have been brought to your committee's attention . . . [Y]our committee has adopted provisions which will give the economy added stimulation and resiliency without departing from realistic standards of depreciation accounting."²⁴

It is obvious that this limitation would be completely frustrated if a period of cost recovery could be arbitrarily selected that was shorter than the asset's actual useful life in the taxpayer's business. In effect, such a step would be an attempted end run around the statute, as though a lobbyist for the ADR system were to say: if we can't get by with a faster method of depreciation, we will fool them with an arbitrarily short life that will speed up our depreciation under the enumerated methods.

But Congress was aware that deviations from accurate useful life estimates could lead to accelerated depreciation beyond

what it was willing to sanction. Therefore, both the House and Senate Committee Reports provided expressly that all the accelerated methods authorized under section 167(b) would be deemed to produce reasonable allowances only "so long as the useful life used in determining such allowances is accurate."

The ADR proposal purports to authorize accelerated depreciation deductions calculated on the basis of cost recovery periods that are acknowledged to have no relationship to the useful lives of the assets in the taxpayer's business. For the great majority of taxpayers who elect ADR, allowances calculated under the ADR system will exceed those calculated under section 167(b) on the basis of an "accurate" useful life, and therefore cannot be regarded as "reasonable allowances" under section 167(a).

Indeed, the natural inference to be drawn from the language and purpose of section 167(b) is that any method of calculating depreciation which, like the ADR system, produces faster write-offs than authorized in section 167(b) with "accurate" useful lives, should be presumptively unreasonable. By providing a conclusive presumption of reasonableness for ADR elections even when the result is faster write-offs than permitted by section 167(b), the ADR proposal flouts the obvious Congressional determination to limit the amount of accelerated depreciation.

The ADR system thus would provide the taxpayer with immunity in an IRS audit at precisely the point where the statute plainly indicates he should be most vulnerable.

D. *In addition to changing the principle of depreciation to a cost recovery system, the ADR proposal would introduce other changes also contrary to present law:*

1. *fundamental changes in the treatment of salvage value—changes affecting both the calculation and purposes of salvage estimates;*

2. *a new half-year convention which will always inaccurately reflect the time of a taxpayer's assets are actually placed in service;*

3. *a "repair allowance" permitting taxpayers to take unauthorized deductions for capital improvements; and*

4. *a new means by which some taxpayers could in the form of proposed depreciation deductions carry operating losses forward beyond the statutory limitation.*

The changes in the treatment of salvage value, the half-year convention and the repair allowance are contrary to the terms and purposes of the Code, are productive of substantial revenue losses, and contain few practical or administrative advantages over present depreciation rules. Their sole effect, singly and combined, is, without authority in the Code, to increase depreciation deductions for business taxpayers.

The ADR proposal would also permit some taxpayers, where it proved advantageous to them, to postpone unduly deductions for depreciation. Section 172, permitting operating losses to be carried forward only a specified number of years, and section 1016, requiring the depreciable basis of an asset to be reduced each year whether or not the taxpayer claims a depreciation deduction in that year, establish the principle that taxpayers should not be free to postpone current depreciation deductions for use in later years. Section 461, together with sections 446 and 451, requires that deductions be taken in the appropriate taxable year under accounting methods which "clearly reflect income." By giving taxpayers the option to elect arbitrarily long recovery periods, the Treasury's proposal would permit taxpayers to allocate depreciation deductions to later years contrary to the requirements of these sections.

A more detailed discussion of these points appears in Appendix B.

IV

Congress has given no authority to the Treasury Department to abandon the fundamental principles of the depreciation system and to replace it with the proposed new ADR system. The assertions of authority claimed by the Treasury Department are unfounded.

The Treasury has claimed authority for its ADR proposal under sections 167 and 7605. The discretion conferred on the Treasury by these sections to issue rules and regulations is a modest one. These provisions do not create a power in the Treasury to issue substantive rules under the guise of defining a "reasonable allowance" for depreciation. Further, the Treasury's regulations must remain consistent with the requirements of the statute.

A. *Section 167.* Section 167(a), the basic depreciation provision, permits an income tax deduction for a "reasonable allowance" for depreciation of property used in a trade or business or for the production of income. This subsection does not provide any Treasury authority to issue regulations. Although this provision has been in force in more or less comparable form since 1913, it was not until 1954, with the addition of sections 167(b) and 167(d), that Congress explicitly granted the Treasury even limited authority to issue rules and regulations in relation to certain aspects of the section. Until that time the Treasury had promulgated interpretative regulations barely embellishing the language of the statute. Both of these new statutory grants, however, conferred an extremely limited and carefully circumscribed rulemaking authority on the Treasury.

Section 167(b), the subsection governing accelerated depreciation, specifically limits the Treasury's authority to issue regulations to the calculation of allowances using "certain methods and rates" for accelerated depreciation. This provision was clearly not intended to confer general rulemaking discretion on the Treasury to use the "reasonable allowance" phrase in subsection (a) to rewrite the entire section. And since, as stated in Part IIIC, the availability of accelerated methods is premised on the accurate estimate of useful life in the taxpayer's business, it is obvious that the subsection cannot give the Treasury the power to abandon the useful life principle.

Section 167(d), the section authorizing the Treasury to make agreements with the taxpayer as to the useful life of his property, also expressly limits the Treasury's authority to that of the issuance of regulations governing the mechanics of making these agreements. Thus, the present Regulations under this subsection, Regulations § 1.167(d)-1, exemplify the nature of the granted authority and relate to the manner of applying for an agreement and other procedural aspects.

The provision, moreover, obviously contemplates the making of an agreement between an individual taxpayer and the Treasury with respect to the useful life of specific property, an agreement that thus focuses on the special facts of the particular taxpayer. These agreements, in addition, are to be binding on the taxpayer and the Treasury "only in the absence of facts and circumstances not taken into consideration in the adoption of such agreement," and may be changed by either party establishing such facts and circumstances. The Treasury's rulemaking power under this section, of course, does not empower it to ignore the express requirements of the subsection. Yet an election to apply the ADR system, which is to be irrevocable and not subject to change by either the Treasury or the taxpayer, does ignore these requirements. The Treasury has asserted that elections to apply the ADR system are to be deemed "agreements" within the meaning of 167(d), but it is clear that

this bootstrapping statement provides no authority for the Treasury's proposal.

B. *Section 7805.* The second provision invoked to support the Treasury's proposed action, section 7805, authorizes the Treasury to issue "all needful rules and regulations necessary for the enforcement" of the Internal Revenue Code. This section empowers the Treasury to issue interpretative rules clarifying ambiguous statutory terms or doubtful readings of the statute. The section clearly does not authorize the Treasury to issue regulations which alter or amend the explicit terms of the Code, or to initiate basic changes in principle—like the ADR system—which are inconsistent with a long period of statutory history and interpretation, administrative practice, and generally accepted accounting principles.

Specifically defined grants of limited rule-making authority appear in the subsections (b), (d), and (1) of section 167, all of which only authorize the issuance of regulations governing the use of accelerated methods and rates, agreements as to useful lives, and depreciation accounting for public utilities in certain instances. Unless we are to be made to believe that Congress intended to delegate a blanket general power to the Treasury in section 7805 to establish the contours of the phrase "reasonable allowance," a power which it expressly declined to delegate in section 167, then we must acknowledge that the Treasury's power regarding the general principles of depreciation accounting is a very modest one.

Nor can the departure in the ADR regulation from well established principles be justified in terms of administrative advantages. Not even the Treasury has claimed that any increased efficiency in administration which ADR might produce is worth a purchase price of from \$3 to \$5 billion in a year, or nearly \$40 billion in a decade.

C. *Sections 446, 451, 461.* In its original announcement of the ADR proposal on January 11, the Treasury also claimed authority for its action under the general accounting provisions, sections 446, 451, and 461. These provisions govern methods of accounting for tax purposes, and limit the years to which taxpayers may allocate items of income and claim deductions. Of the three, only section 446 gives the Treasury the explicit authority to issue rules and regulations, and then only to prescribe methods of income accounting to insure that the taxpayer's return "clearly reflects income."

All three provisions evidence a Congressional intent to prevent taxpayers from manipulating accounting methods to defer or eliminate their tax liability and to insure that their accounting methods produce accurate estimates of taxable income. If these sections were considered relevant to the depreciation section at all, by virtue of the fact that depreciation has always been regarded as an accounting concept, they would hardly support the adoption of the proposed regulation, which would enable taxpayers to postpone tax liability and distort their income tax liability in a manner fundamentally inconsistent with generally accepted income accounting principles. Clear reflection of income implies depreciation based on the concept of an income-producing asset's useful life to the taxpayer.

There are thus no statutory provisions delegating a broad rulemaking authority to the Treasury in the area of depreciation. The scope of the Treasury's authority to issue regulations regarding depreciation must be determined with reference to the meaning of the substantive provisions themselves. It was not until 1956 that the Treasury even promulgated a regulation which attempted to define, for the first time in the regulations, such concepts familiar in all depreciation accounting as "useful life" and "salvage value."

This 1956 regulation closely followed the

language of the depreciation sections of the statute and their interpretation in the courts. The Treasury's authority—now as then—must be defined with reference to the meaning of the term "reasonable allowance" as it has been interpreted in the courts and applied by the Treasury.

v

The Treasury's administrative action in 1962, regarding depreciation guidelines and the reserve ratio test, fully accepted the statutory principle of useful life depreciation but sought improved methods of administering and applying that concept.

The 1962 action is therefore no precedent for this Treasury proposal—in fact, it is completely polar to the Treasury's current proposal, which rejects the statutory principle and substitutes a totally new and unauthorized system.

All prior administrative action of the Treasury in the field of depreciation is also at variance with the change now proposed.

Proponents of the ADR system have suggested that the proposal is supported by prior Treasury administrative action, especially that of 1962. This position is premised on a complete misunderstanding of the Treasury's administration of the depreciation provisions.

A. *The 1962 administrative action*

The Treasury's 1962 administrative action, which introduced depreciation guidelines and the reserve ratio test, fully accepted the statutory principle of useful life depreciation but sought improved methods of administering and applying that principle. Under the 1962 procedure a taxpayer electing to be tested under the guidelines is permitted to write off his assets in accordance with a schedule of guideline lives for broad classes of assets. A taxpayer may use a guideline life however, *only if* he satisfies the "reserve ratio test." This is a mathematical formula based on the taxpayer's own depreciation accounts, which formula is designed to insure that the taxpayer's asset retirement and replacement practices are consistent with the guideline life elected. With some tolerance for administrative convenience and for annual variations in the taxpayer rates of replacement, the reserve ratio test insures that taxpayers may qualify to use a guideline life only when it is a fair representation of useful service life of the assets used in his trade or business. A comprehensive simulation study published by the Treasury Department in 1968²⁸ established that the procedure is technically sound, even when applied to firms with varying growth rates. The Treasury affirmed the conclusions of that study as recently as July, 1970.²⁷

Hence, the administrative action introduced in 1962 represented an effort to improve and facilitate the calculation of depreciation in accordance with the principle of useful life depreciation required by section 167. The Treasury Department made this clear in its Release describing the 1962 action:

"The fundamental concept underlying the new procedure is that the depreciation claimed by a taxpayer will not be disturbed if there is an overall consistency between the depreciation schedule he uses and his actual practice in retiring and replacing his machinery and equipment. Demonstration of this overall consistency will be based on broad classes of assets. Guidelines are established for each of these classes . . . to assist in the determination of depreciable lives."²⁸

The Treasury, in adopting the guidelines system in Revenue Procedure 62-21, emphasized that the new testing procedures conformed to the principle of useful life depreciation that had consistently developed over the previous half century:

Footnotes at end of article.

"At present, depreciation is based on the useful life of property in the taxpayer's own trade or business. . . .

"The depreciation reform retains this approach. Every taxpayer should continue to base his depreciable lives on his own best estimate of the period of their use in his trade or business. . . .

"The guidelines . . . will be presumed to be acceptable unless subsequent events show that they are not appropriate for a particular taxpayer's circumstances. Of course, to no extent do the new guidelines foreclose a taxpayer from using even shorter depreciable lives if his particular retirement and replacement practices are more progressive than those of the industry of which he is a part. Thus, under the depreciation reform, depreciation continues to be based on the concept of useful life of property to the taxpayer. However, wider latitude is provided for the taxpayer in making his own best estimate of useful life, and objective standards are provided wherever possible for determining when the taxpayer's estimates should not be disturbed.

"[T]he Reserve Ratio Table will provide objective guides for establishing that a taxpayer is entitled to use even shorter lives than he has used in the past."²⁹

The Treasury, as recently as July, 1970, described the guideline testing procedures as a means of facilitating the administration of the statute while providing realistic estimates of depreciation:

"Guidelines formalized the application of the reserve ratio test, a mechanical method by which business taxpayers may establish whether the asset lives they are using for tax purposes are consistent with their useful lives as required by Section 167(a) of the Internal Revenue Code.

"It was not the intent of the Guidelines to simply shorten lives for tax purposes for all taxpayers. It was, rather, intended that taxpayers who had adopted, or wished to adopt, investment policies which resulted in below average replacement periods should not be penalized by the theretofore traditional tax audit procedure which placed the burden of proof on the taxpayer for "justifying" departures from Bulletin F lives. Thus, the new published guidelines were "short" for the bulk of business taxpayers, but they were admonished that, if they were to use these lives, or any other which might be shorter or longer, they would have to satisfy the reserve ratio test. . . . Altogether, present law tax depreciation policy may be characterized as a set of rules under which taxpayers may freely select from a set of depreciation methods (straightline, double declining balance, sum-of-years digits, etc.) allowable under Section 167 of the Code by which to distribute the cost of assets over their expected useful lives, and they may objectively establish the conformity of their depreciation deductions with their replacement policies by pre-established rules—the reserve ratio test and supplementary transition rules."³⁰

The difference between the guideline system and the ADR proposal is patently clear. The elimination of the reserve ratio test and the shortening of the guideline lives will introduce a wholly new system under which the taxpayer need make no showing whatsoever that his ADR cost recovery allowances are consistent with his retirement and replacement policies. The Treasury, in its more objective moment, in the July, 1970 statement just quoted, indicated that the reserve ratio test is the key to the 1962 administrative action.

The ADR proposal, however, would eliminate that test. It is impossible, therefore, to understand how the 1962 action can be claimed as a precedent for the current proposal, when that proposal removes the essential element of the earlier action. One could hardly conceive two more opposite approaches to depreciation. Yet it is the 1962

approach—and not the current proposal—which follows the basic command of the statute.

Proponents of the current ADR proposal seek to shake the reserve ratio test with rhetoric and misunderstanding. They say the test is "unworkable" or "complex." They say it cannot adjust to changing economic conditions or that it is backward-looking and far from perfect. What all this translates into, however, is that many taxpayers are simply not meeting the requirements of that test because they do not conform their actual replacement practices to the liberal guidelines established in 1962. Rhetoric and misunderstanding are the devices which must be seized to cloak the noncompliance and to attack the reserve ratio test, for neither logic, theory, nor detailed proof of defects is available to those who seek to disparage the test. The Treasury's 1968 Tax Depreciation Study exhaustively and conclusively analyzed that test and found it sound. The Treasury's 1970 Study of Tax Depreciation Policy Options recognized the validity of the earlier study. Statements filed for this Hearing by acknowledged experts on depreciation accounting confirm the validity of the reserve ratio test. See, for example, the Statement of Prof. Richard Pollock, University of Hawaii, submitted for this Hearing, and especially his analysis of the errors in the criticism of the test made by the President's Task Force on Business Taxation (Sept., 1970).

The technical details considered in this Hearing should not obscure what is really happening. In 1962 representatives of business argued that if taxpayers were freed from the shackles of Bulletin F and permitted to use liberalized asset lives for tax depreciation purposes, they would replace their assets more rapidly as a consequence of technological change and innovation. The Treasury responded with liberal guideline lives. But representatives of some businesses have found that a number of taxpayers simply do not replace their assets as rapidly as the guidelines lives.

Consequently, under the present statutory principles of depreciation and the reserve ratio test, those taxpayers would now have to lengthen their claimed tax lives to come into compliance with the transition rules governing the use of guideline lives. It is obvious that these representatives need a new ploy. "Liberal depreciation lives" have not proven to be the key, because many taxpayers simply do not use such liberal lives in actual practice. Instead, the ploy now put forth by these representatives is to scrap the present system and substitute "capital cost recovery periods" that have nothing to do with depreciation. (See for example *Production*, the Magazine of Manufacturing, June, 1970, p. 114).

Under the new method taxpayers would have unrealistically short *tax lives*, but would not be required to use those lives in actual practice. The Treasury in the ADR proposal is accepting this ploy. But—leaving aside the undesirability of this ploy—since it rejects the statutory principles which underlie the depreciation, it is simply not within the power of the Treasury to adopt.

B. Administrative Action Prior to 1962

All administrative action prior to 1962 in the field of depreciation similarly is also at variance with the changes now being proposed. In the nearly sixty years of administration of the depreciation provisions the Treasury has never abandoned the principle of useful life to the taxpayer. Accepting that principle, it has sought only to alter the administrative mechanisms for its application. The following survey of the administra-

tion of the section is based on Appendix A which contains the specific details.³¹

In 1933, a special Treasury report revealed that many taxpayers had taken such large depreciation deductions that they had "built up reserves which [were] out of proportion to the prior exhaustion, wear and tear of their depreciable asset . . ." and that many taxpayers would be able to depreciate their assets completely "before the actual useful life of the assets had terminated." These taxpayers had claimed their depreciation deductions under a regulation which, though proclaiming in general language that the burden of proof was on the taxpayer to show that his depreciation allowance was reasonable, also required that "such deductions will not be disallowed unless shown by clear and convincing evidence to be unreasonable." This language effectively placed the burden of proof on the Treasury in challenging a taxpayer's depreciation allowances, and had led to slack enforcement of the provision.

The reaction in Congress to this state of affairs was unambiguously critical. Depreciation over a period shorter than the assets' actual useful life was uniformly condemned as "excessive" by both the House Ways and Means Committee and by the Treasury, and was referred to as an "unreasonable allowance" by the Senate Finance Committee and on the floor of Congress. After these events the statutory depreciation provisions were reenacted in 1934 without change, but only on the condition that the Treasury alter its administration of the statute to require taxpayers to justify their depreciation schedules and to reduce depreciation allowances "by the amount [they had been] excessive in prior years."

Statements supporting the adoption of the ADR system misinterpret this episode and conclude that Congress acquiesced in an expansion of the Treasury's administrative powers. On the contrary, the reaction of Congress to the administration of the statute prior to 1933 reveals that Congress disapproved of any deviation from the accurate depreciation of assets over their useful lives and that any administrative posture which permitted such deviations was not to be countenanced. The episode therefore reveals a constriction rather than an expansion of the Treasury's administrative discretion to deviate from proper depreciation accounting.

In 1942, the Treasury revised "Bulletin F" to include a schedule of suggested useful lives based on detailed industry averages, to facilitate the calculation of depreciation deductions. The title page of the Bulletin warned that the averages contained in the Bulletin were "not prescribed for use in any particular case," and were set forth "solely as a guide or starting point from which rates may be determined in the light of experience of the property under consideration, and all other pertinent evidence." Accordingly, the Tax Court³² has required that a taxpayer demonstrate that his useful life estimates are justified on the basis of the taxpayer's own experience, and that he could only rely on Bulletin F lives when his own experience was an inadequate basis on which to make accurate useful life estimates.

In 1953, the Treasury announced in Revenue Rulings 90 and 91 that it would not disturb a taxpayer's depreciation allowances unless there was a clear and convincing basis for change, in order to reduce "controversies with respect to depreciation." This announcement did not represent a deviation from the useful life principle. On the contrary, the Treasury Rulings stressed that the purpose of the depreciation deduction "is to permit taxpayers to recover through annual deductions the cost (or other basis permitted by law) of the property over the useful life of the property."

In the Regulation issued in 1956, the last major announcement of administrative policy

before the issuance of the 1962 Guidelines, the Treasury said:

"If the taxpayer's experience is inadequate the general experience of the industry may be used until such time as the taxpayer's own experience forms an adequate basis for making the determination. The estimated remaining useful life may be subject to redetermination . . . only when the change in the useful life is significant and there is a clear and convincing basis for the redetermination."

There is thus not a shred of evidence in the long history of the administration of the depreciation deduction that suggests any departure from, or a gradual erosion of, the principle of depreciation based on useful life to the taxpayer, or a loosening of the requirement that the taxpayer make some showing that the asset lives used for tax purpose be consistent with the rate of retirement and replacement of his assets. The concept of depreciation based on useful life to the taxpayer has been faithfully adhered to by the Treasury throughout its attempts to improve administration in this area—up to 1971. The ADR proposal would not merely modify this concept. It would, without statutory, judicial or administrative precedents, abruptly abandon it and substitute a totally new and unauthorized concept.

VI

All prior statutory precedents clearly demonstrate that any departure from the Code's requirements for the deduction of capital expenditures, and any deviation from the principle of useful life depreciation, must come through specific legislative enactment and cannot be made administratively by the Treasury.

From time to time Congress has explicitly allowed the expensing of certain capital expenditures, always in a clearly circumscribed fashion. The specificity of these enactments, their range and the variety of approaches used all underscore the requirement that the departures from the basic rule of sections 263 and 167 are for the Congress to make, in the specific areas it determines and for the specific policy reasons it adopts.

Special statutory provisions have been enacted by Congress permitting current deduction for certain capital expenditures: for example, mineral development expenditures (section 616), research and development expenditures (section 174), soil and water conservation expenditures (section 175), and expenditures by farmers for land clearance and fertilizer (sections 181, 182).

Where Congress has not wished to provide a single current expense deduction but has desired instead to accelerate the recovery of capital investment more rapidly than it could be recovered under section 167, it has adopted uniquely short cost recovery periods in an explicit manner. Thus, for example, Congress has provided rapid amortization over fixed five year (or in some cases longer) periods, in place of the standard depreciation allowance: for rehabilitation of low income rental housing (section 167(1)), defense emergency facilities (section 168), pollution control facilities (present section 169), railroad rolling stock (section 185), railroad grading and tunnel bores (section 185—50-year period in place of no depreciation because of unlimited life), coal mine safety equipment (section 187), grain storage facilities (former section 169, now expired). The Committee Reports accompanying these provisions make it clear that these amortization periods were intended to permit more rapid capital cost recovery than depreciation under section 167 would permit.³³ These sections provide a cost recovery approach—but under express and circumscribed Congressional legislation. The proposed ADR system would adopt a cost recovery approach generally, solely through administrative action.

Footnotes at end of article.

Where Congress has not wished to change the period over which an asset will be written off but has instead desired to alter the manner in which the expenditure is spread over the period, it has in situations selected by it permitted "accelerated depreciation": for example, a double declining balance method at 200% of the straight line rate (section 167(b)(2)), and a sum-of-the-years-digit method (section 167(b)(3)). But the Congress has placed limits on the scope of this authorization, and has from time to time changed the rules or cut back on the availability of acceleration.²³

This detailed supervision by Congress of all the provisions in the Code governing the capitalization of expenditures obviously does not contemplate a sweeping power in the Treasury to initiate changes in the basic method of treating capital expenditures and changes in the basic principle of depreciation itself.

The Treasury, with the proposal of the ADR system, has not only usurped the essentially legislative prerogative of determining any departures from the basic principles of sections 167 and 263, but it has done so in a manner inconsistent with Congressional purposes as expressed in a number of provisions of the Tax Reform Act of 1969. For example:

1. The Congress in the Tax Reform Act of 1969 recognized the special tax benefits that the acceleration of deduction for capital expenditures provides. It thus identified accelerated depreciation deductions for buildings and leased equipment, and the special amortization deductions for pollution control equipment and railroad rolling stock, as "tax preferences," and subjected the deductions to a "minimum tax" to the extent they exceed annual straightline depreciation deductions (sections 56-58). The proposed cost recovery system affords far more in the way of "tax preferences" than the four items mentioned above, and yet the Treasury seeks to grant its tax preference by administrative action in complete disregard to the approach taken in 1969.

2. The minimum tax on tax preferences applies to the differences between amortization allowances and "straight line" allowances. Since the straight line allowance calculated on the basis of arbitrarily short ADR lives would be inflated, the "tax base" of the minimum tax would be eroded for these amortization allowances.

3. The purpose of the requirement that straight line depreciation be used in the calculation of "earnings and profits" (section 312 (m)), which was intended to reduce distortion in that calculation due to unrealistic accelerated depreciation charges, would be undermined by the distorted deductions resulting from the use of arbitrarily short ADR lives.

4. Where the ADR system would permit elections of cost recovery periods comparable in length to the special amortization periods, the availability of accelerated depreciation would speed capital recovery even faster than that provided under the straight line amortization carefully delimited in the statute.

Just as the Treasury is claiming the power to proceed contrary to the thrust of recent Congressional action, and to increase benefits for one group of taxpayers, it likewise is claiming the authority to deny some groups of taxpayers the ability to use the cost recovery periods it seeks to establish. Thus the proposal requires public utilities electing the ADR system to meet the same accounting requirements that Congress by legislation set forth in 1969 for accelerated methods and rates. But there is no warrant in section 167 for administratively exacting such a requirement from any taxpayer in the calculation of depreciable lives.²⁴ The Treasury also denies the ADR system to

assets used abroad, again without any warrant. Throughout the Treasury claims the power to pick and choose as it wishes, here to emulate Congressional rules on public utilities, there not to emulate Congressional rules on earnings and profits, and so it goes.

The inconsistency of Code provisions with the introduction of capital cost recovery under the proposed ADR system reveals a very simple and obvious message. All of the statutory exceptions to the requirements in the Code that capital expenditures be capitalized rather than expensed are premised on the existence and acceptance of a fundamental principle—embodied in the statute, its history, and the decisional law—that assets must be depreciated over a period estimated reasonably to represent their useful life to the taxpayer who uses them. Only Congress may deviate from that principle.

VII

The proposed change in the depreciation system is presented by the Treasury without any supporting data as to expected lives of machinery and equipment to justify the arbitrary and shortened capital cost recovery periods to be granted to taxpayers.

In fact, all the evidence available is clearly to the contrary, indicating that expected lives are considerably longer than the proposed recovery periods.

The Treasury has offered no empirical studies, no supporting data, no documentation, indeed no factual support of any kind, for the arbitrary shortening of guideline lives by a 20% margin.

There can be no pretense that the lives at the "short" end of the asset depreciation ranges actually represent existing industry-wide averages. The guideline lives themselves on which the asset depreciation ranges are based, were set well below the average asset life in each industry in 1962 to reflect the rapid retirement and replacement policies of the most innovative firms and to remove any possible contention that the Guidelines were illiberal or restrictive. The Treasury in its Study of July, 1970 recognized these guidelines as set "short" for the bulk of business taxpayers. Lives that are short in July 1970 do not become over 20% too long six months later.

Indeed, since 1962 no industry has claimed that the 1962 guideline lives are too long compared with actual practice. On the contrary, all have recognized the liberality of those lives. The real problem is that the guideline lives are proving to be too liberal for many taxpayers, who do not desire to replace their assets as rapidly as the guidelines imply.

It is thus clear that the assertion that the 20% shortening of the guideline lives is necessary to reflect new technological breakthroughs and a concomitant increase in obsolescence is only a pose, a pretense in the absence of evidence to support the claim. The Treasury has produced no study indicating a general increase in the rate of technological obsolescence. Of course no empirical survey could show that the period of economic usefulness of all assets, in all industries, and for all taxpayers, had declined by the same percentage amount since 1962. Section 167 does authorize a deduction for depreciation "including a reasonable allowance for obsolescence," but it plainly does not authorize the Treasury to permit, any more than it would authorize individual taxpayers to claim, larger depreciation allowances in the name of increased obsolescence unless the obsolescence is there.

Proponents of the ADR proposal say that it is difficult to estimate the length of asset lives as used in a taxpayer's business or to estimate the degree of obsolescence of these assets. No estimate, they say, can perfectly measure a taxpayer's useful lives for his assets. This is of course true, and the statutory principle of depreciation presents

this task of estimation just as does business accounting which utilizes the same concept. But it does not follow, because problems of estimation are present, that the Treasury is free to solve them by eliminating the concept and seeking to discard entirely any attempt at correspondence between tax lives and the useful life in the taxpayer's business. The present standard has its problems, but it also is anchored in tax history, the logic and structure of an income tax which seeks to measure business net income, and in business accounting. That standard has its great advantages also, for it seeks to guarantee fairness and equity among taxpayers and industries. The 1962 administrative action, with the reserve ratio test, accepted that standard as it must and at the same time eliminated many of the problems of estimation that had characterized prior administrations. (See the Statements of Professor Martin David and Richard Pollock submitted for this Hearing.) It is not the province of the Treasury to seek solutions that abandon the statutory principle of "useful life" and to substitute instead a capital cost recovery approach that is entirely at variance with it.

Only the Congress has this power

All evidence publicly available suggests that expected useful lives of taxpayers' assets are in reality much longer than the Treasury's arbitrarily shortened recovery periods in the ADR proposal. As stated above, the guidelines were purposefully selected in 1962 to be shorter than the average asset life of assets in most industries by anywhere from 10 to 30%. The guideline lives were selected, after the Treasury undertook exhaustive surveys, analysis of income tax returns, special investigations and numerous conferences with industrial leaders, in order to reflect the useful lives of assets in the most innovative firms in each industry. The consequence was such that, in most industries, more than 70% of the industry then had longer actual asset lives than the guidelines. There is no evidence to suggest that these actual asset lives have become shorter than the guidelines for these taxpayers since 1962, and several indications that they have remained considerably longer for very many taxpayers. At the end of an initial transition period, a 1965 Treasury Survey showed, for example, that 87 percent of the firms surveyed would not be able to satisfy the reserve ratio test, i.e.—that their assets' useful lives were still substantially longer than the guideline lives. A substantial number of taxpayers surveyed indicated that it would be "uneconomical to retire assets at the end of the time period represented by the guideline lives."²⁵ The implication in the Treasury's ADR proposal that obsolescence has increased since 1962 is rebutted by a 1968 survey showing that the amount of obsolete equipment has declined from 20% to 13% between 1962 and 1968.²⁶

The public recognition by proponents of the ADR proposal, their stated concern, is that taxpayers are not in actual practice depreciating as rapidly as the present guideline lives permit. This is itself eloquent and convincing evidence that those guideline lives remain today, just as in 1962, very liberal guidelines. No industry has publicly offered any argument or data claiming the contrary.

The urging of accountants that there be no requirement under the ADR proposal that the shortened lives there permitted be used also for book purposes is further clear evidence that the ADR lives are far shorter than lives used in actual practice. Accountants emphasize the importance for accounting purposes of businesses continuing on their books to reflect the actual lives of assets as determined by the business in the light of its experience; this is in order to reflect their income honestly. They also recognize that the ADR tax lives would be far shorter.

Footnotes at end of article.

VIII

The proposed change in the principles underlying the depreciation system involves issues of major economic importance for the United States.

The proposed change rests on economic premises considered thoroughly unsound by many experts.

The proposed change represents judgments on priorities on the use of public funds involving billions of dollars—judgments that are directly contrary to recent Congressional action and that are disputed by many segments of American public opinion.

These aspects of the proposed change underscore the fact that such a decision is for the Congress to make, and may not be made by an administrative agency.

As demonstrated above, the Treasury ADR proposal is a sweeping unauthorized change in the basic principle of depreciation as it has existed for half a century. This effort to change the concept of depreciation raises issues of major economic importance for the United States. The Treasury has stated that the tax reduction for business resulting from this change "is an integral part of the expansionary policies announced by President Nixon" to promote economic growth, increase employment, modernize plant and equipment, improve the balance of payments, and increase national productivity. The method chosen to achieve these results is that of a tax incentive for business investment to be provided at this stage of the nation's economic position.

They do not want to be placed, nor do they want businesses to be placed, in the position of having to decide between artificially short tax lives and longer actual lives. This concern would disappear if the tax lives really reflected actual lives. The seriousness of the concern underscores the great disparity that does exist between the two sets of lives. See the Statement of R.S. Antes, of Ernst and Ernst, submitted in this Hearing.

In the absence of available information supporting a further shortening of depreciable lives, and in the presence of every indication that the present guideline lives are very liberal, it is incumbent on the Treasury to justify its proposed change by producing supporting data. The Treasury's failure to disclose any supporting data and studies which led it to propose the ADR system make it difficult if not impossible for interested and affected persons to comment completely and adequately.

The failure of an administrative agency to furnish such information to interested parties illegally deprives them of their statutorily guaranteed right of hearing and review, because it would produce a deficient record for review. The Treasury has no reason for not coming forward now—indeed, it has the obligation under the Administrative Procedure Act and the Due Process Clause to come forward—with the data and studies to support the ADR proposal. As it now stands, the record furnished by the Treasury is unacceptably deficient.

The change in depreciation principles represents an assertion that tax incentives for investment are needed and that they can best be achieved through tax reduction for corporations brought about by very rapid capital cost recovery allowances over arbitrary time periods. Obviously these objectives and assertions raise wide-reaching issues of fundamental economic importance for the United States and its economy. Clearly all of these matters can be and should be the subject of public debate and Congressional decision.

Moreover, even if the Treasury's economic goals and judgments regarding the level of investment in the United States were in the end found appropriate, the economic premises on which this particular tax incentive

is rested to justify its effects on business investment are considered thoroughly unsound by many experts. They claim that the ADR proposal will have minor expansionary impact on the economy in the short run, and only minimal and speculative impact on the growth of investment in the long run.

The proposal will create disincentives for inefficient firms to modernize. It will distribute its benefits arbitrarily, irrationally and capriciously among firms. See, for example, the companion paper of Professor Paul Taubman submitted in conjunction with this Statement and the Statements of Professors Martin David and Robert Eisner.

Congress in section 167 did not confer broad discretion on the Treasury Department to manipulate the depreciation provisions to accomplish economic stabilization and long-range growth. The provision for a "reasonable allowance" for depreciation is instead designed as a step in the measurement of business net income to reflect the consumption of capital expenditures for machinery and equipment. The section cannot therefore be seized by the Treasury as the lever to determine stabilization policies and national priorities.

The ADR proposal involves an expenditure of \$3-\$5 billion annually. It is about a third of the deficit for fiscal 1972 set forth in the Budget. Clearly the proposal represents a judgment on the priorities governing the expenditure of public funds—a judgment that will control the disposition of \$40 billion in the next decade. There are many more claims on public funds than moneys available to meet those claims, so that such judgments on priorities are crucial to the manner by which we resolve our national problems. The judgment made by the Treasury Department in its ADR proposal is a judgment to allocate a very large part of the available expenditures represented by the 1972 Budget deficit to tax reduction for some corporations, essentially large corporations.

This Treasury judgment is directly contrary to Congressional decisions in 1969, which both eliminated the seven percent investment credit incentive to investments by those corporations and refused to reduce the corporate tax rates. This Treasury judgment is disputed by many segments of public opinion, which are seeking instead to spend the available funds—funds which the President and the Treasury by choosing to use them for tax reduction have expressly said are available to be spent in some fashion—in a far different manner.

These segments of public opinion believe the funds should be spent on expanded social programs in public employment, adequate family assistance, education, pollution control, health, housing, transportation, and many other areas. Their priorities for the United States lie in these social areas and not in tax reductions, and especially not in tax reduction for major business enterprises. Common Cause shares the view of those that claim these differing national priorities.

This Hearing should not be the forum to decide national priorities and ration scarce public resources. Such decisions belong to the Congress and should be debated in Congressional hearings and on the floor of Congress. It is the task of administrative agencies to accept and implement Congressional judgments on priorities regarding public expenditures and tax burdens.

The Treasury's ADR proposal is an effort to alter the traditional roles of Congress and administrative agencies in our Government. Its unauthorized effort to change the principles of depreciation and thus initiate a fundamental change in tax policy is at the heart of the controversy it has provoked over wide-ranging issues of economic growth and national priorities for the solution of social problems. Though couched in terms of an exercise of administrative discretion, the Treasury proposal subsumes matters that are

legislative in character and impact. It is clear that a tax change of this character, importance and magnitude is for the Congress and not the Treasury Department.

FOOTNOTES

¹ Although the "asset depreciation ranges" are defined with reference to the guidelines, the system of cost recovery is in no way based on, or otherwise related to the guidelines testing procedures introduced in 1962 in Rev. Proc. 62-21, 1962-2, Cum. Bull. 418. See Part V of this statement.

² Under present rules a taxpayer electing to be tested under the guidelines must calculate the useful life and salvage value of the assets in his own business. Three testing approaches are employed to assure the asset lives he elects for tax purposes conform to the actual useful lives of the asset in his business:

1. If the taxpayer's own estimates of useful life are shorter than the guideline lives, he may use his own useful life estimates for tax purposes only if he can demonstrate their accuracy on the basis of the facts and circumstances in his own business.

2. If his own estimates are longer than the guideline life, he may use the guideline life, but only if he satisfies the reserve ratio test, a mechanical formula based on the taxpayer's own depreciation accounts which is designed to insure that the guideline life selected by the taxpayer is consistent with the actual useful life in the taxpayer's business.

3. Even if the reserve ratio test or "facts and circumstances" test are initially satisfied, the taxpayer's depreciation allowance may be challenged if his asset retirement and replacement practices change substantially, necessitating a recalculation of his useful life and salvage estimates.

By contrast, the ADR system would create an absolute right to use the ADR life falling within the ranges. It would require no factual substantiation of the taxpayer's claimed tax lives, regardless of the useful lives of the taxpayer's assets. It would eliminate the reserve ratio test. And, because a taxpayer's election to adopt ADR life is irrevocable, and may not be adjusted, the ADR elections could not be challenged by the IRS even under circumstances that rendered the life wildly erroneous.

³ *Business Taxation: The Report of the President's Task Force on Business Taxation*, Sept. 1970, at 3, 20. (Italic added.)

⁴ *Id.* at 16.

⁵ *Id.* at 29:

"[S]ince the shift from depreciation to cost recovery unrelated to the useful life concept does require amendment of the present law we urge that all matters covered in the recommendations which are related to such shift be incorporated in the statute."

In addition, the Task Force specifically recommended that the Secretary of the Treasury, or his delegate, be given "express authority to reduce cost recovery periods for any or all groups of facilities from time to time." *Id.* at 19.

⁶ See the ABA's proposed amendment to the Internal Revenue Code in 22 *Tax Lawyer* 1003 (1969).

⁷ *Tax Management*, TMM 71-04, Feb. 22, 1971, at 7.

⁸ See, e.g., the comments of Norman B. Ture in "Capital Recovery Law: Where Do We Go From Here," *Production, The Magazine of Manufacturing*, June 1970, at 114. According to Mr. Ture, the introduction of capital cost recovery would introduce a "clear break" with "depreciation" accounting and "would mean eliminating once and for all from the statute . . . the concept of useful life as being to no point." *Id.* at 125, 127.

⁹ *B.N.A. Daily Report for Executives, Taxation & Finance*, No. 71. April 13, 1971, at G-4, 5.

¹⁰ *Id.* at G-1.

¹⁰ Department of the Treasury, *Tax Depreciation Policy Options: Measures of Effectiveness and Estimated Revenue Losses*, reprinted in *Cong. Rec.*, July 23, 1970 at p. 25684 [hereinafter cited as *Policy Options*].

¹¹ See Treasury Department Release, 1971 P-H Fed. ¶ 15,931. The \$40 billion estimate is calculated on the conservative assumption that revenue losses will increase in equal annual increments to 1976, and decrease in equal annual increments through 1981.

It is likely these estimates are understated, since they apparently do not reflect the revenue losses that would result from the abandonment of salvage value in the estimation of annual deductions or the elimination of the reserve ratio test. The Treasury stated in its July, 1970 Study on Depreciation Policy Options that neither revenue loss was quantifiable. *Policy Options* at p. 25686-87.

¹² *Id.* at p. 25688.

¹³ The elimination of salvage value from computation of annual allowances would also introduce inequities among firms, since it would favor those that use assets for a short time and are able to resell their assets at relatively high prices. The elimination of salvage value would least benefit taxpayers who hold their assets for a short period and do not resell them at an attractive market price. Yet it is the latter taxpayer whose asset has actually depreciated more. In July, 1970, in a more objective moment, the Treasury itself said of the elimination of salvage value from the calculation of annual allowances:

"The practical impact of this proposal [to eliminate salvage] is obviously to increase the absolute amount of depreciation deductions . . . Since the margin of benefit is so much greater for short lived assets, while being restricted to taxpayers who, in fact, have salvage value to ignore, it is reasonable to infer that one of the side effects of such a change in the tax laws would be to stimulate the growth of artificial asset ownership and trading patterns whose only function would be to maximize the amount of the tax depreciation deductions."

Policy Options at p. 25687.

¹⁴ *Id.* at p. 25686.

¹⁵ See generally, *Tax Depreciation and the Need For The Reserve Ratio Test*, Treasury Dept., 1968, Ch. 6.

¹⁶ The Treasury acknowledges this in its July, 1970 Study: "[I]nvestment incentives provided through tax depreciation policy necessarily favor large [businesses] relatively to small businesses since so much of the value of the incentive is dependent on tax deferral and, hence, on the nominal tax rate." *Policy Options* at p. 25688.

¹⁷ *Policy Options* at p. 25686.

¹⁸ The criteria defining "eligible property" for ADR treatment have been taken almost verbatim from section 48 of the Code which defines "qualified property" for the investment credit. Thus, property eligible for ADR treatment must be employed in certain specified industries, and must not be predominantly used abroad. As Professor Boris Bittker has observed in a paper submitted to the Treasury for these hearings, these distinctions may be appropriate for an investment credit designed to encourage certain sectors of domestic investment, but they have nothing to do with the accurate estimation of depreciation under section 167, which applies to all depreciable property. Professor Bittker observes:

"The lines of demarcation . . . can be understood only as the result of a Treasury decision that investment in particular types of property should be encouraged by a tax incentive . . . This decision . . . can hardly be defended as an 'interpretation' of the Internal Revenue Code (page 7)."

¹⁹ S. Rep. No. 91-552, 91st Cong., 1st Sess., 266 (1969) (underlining added).

²⁰ S. Rep. No. 1881, 87th Cong., 2nd Sess., 11 (1962) (underlining added).

²¹ See Regulations, § 1.263(a)-2(a)

²² See *F.H.E. Oil Co. v. Commissioner*, 150 F.2d 857 (5th Cir. 1945).

²³ Statement submitted to the Treasury on April 12, 1969 by the National Machine Tool Builders Association, at 12.

²⁴ For citations to authorities in the rest of this Part, see Appendix A.

²⁵ *Policy Options* at p. 25687.

²⁶ H.R. Rep. No. 1337, 83rd Cong., 2nd Sess., 24 (1954).

²⁷ H.R. Rep. No. 1337, 83rd Cong., 2nd Sess., A48 (1954); S. Rep. No. 1622, 83rd Cong., 2nd Sess., 201 (1954) (underlining added).

Both Reports also stated:

"The liberalized declining-balance method included in the bill . . . results in a timing of allowances more in accord with the actual pattern of loss of economic usefulness. With the rate limited to twice the corresponding straight-line rate and based on a realistic estimate of useful life, the proposed system conforms to sound accounting principles (underlining added).

H.R. Rep., *supra*, at 23; S. Rep., at 27-28.

²⁸ *Tax Depreciation and the Need for the Reserve Ratio Test*, Treasury Department, 1968.

²⁹ *Policy Options* at p. 25684.

³⁰ Treasury Department, Release D-538, July 11, 1962, page 1.

³¹ Rev. Proc. 62-21, 1962-2 Cum. Bull. 463-64 (Questions and Answers, Nos. 3, 5).

³² *Policy Options* at p. 25684 (italic added).

³³ For citations to authorities, see Appendix A.

³⁴ For citations, see Appendix A, under heading "Treasury-1942".

³⁵ See, e.g., H.R. Rep. No. 2894, 76th Cong., 3rd Sess., 16 (1940) (defense emergency facilities); H.R. Rep. No. 894, 83rd Cong., 2d Sess. 6 (1954) (grain storage facilities); H.R. Rep. No. 91-413, 91st Cong., 1st Sess., 197 (1969) (Part I) (pollution control facilities).

³⁶ Thus, accelerated methods and rates:

1. are only available for assets with useful lives of three years or more (section 167(c)),
2. are available to public utilities only if they meet special accounting requirements (section 167(l)),
3. are available for commercial buildings, but only up to a maximum allowance calculated on the 150% declining balance method (section 167(j)),
4. may not be used in the calculations of "earnings and profits," (section 312(m)),

In addition:

5. depreciation allowances may be increased in the case of personal property by an additional 20% first year allowance calculated against the cost of the asset, so long as the deduction does not exceed \$10,000 and is not applied to property with a useful life shorter than six years (section 179).

³⁷ *Sources of Information on Operation of Guideline Procedures*, Office of Tax Analysis, U. S. Treasury Dept. (1965).

³⁸ Tax Foundation, *Depreciation Allowances* (1970) at 28.

³⁹ In effect, the Treasury's assertion of power to limit ADR to public utilities which "normalize" is an admission that the proposed ADR systems is a bold attempt to accelerate depreciation without Congressional approval.

ASSET DEPRECIATION RANGE—AN ECONOMIC ANALYSIS*

Any change in the American tax system must be judged on the following criteria. Is it fair to various groups of taxpayers? Does it lead to a better allocation and fuller use of resources? Is it easy to administer? On each of these criteria, the Treasury's new "Asset Depreciation Range" (ADR) plan is wanting.

The plan is unfair in the following ways: A. By administrative fiat, it has reduced annual taxes on businesses by up to \$4 bil-

lion.¹ Initially this tax reduction will be paid for by the public either through higher income (and other) taxes or inflation.

B. A greater advantage is given to the more capital (equipment) intensive industries.

C. Those businessmen who report asset lives honestly are placed at a disadvantage with competitors.

D. It rewards those firms which deliberately have avoided meeting the existing Reserve Ratio Test while lobbying to eliminate the test.

The last two points indicate that besides being unfair, the plan sets an undesirable precedent in rewarding questionable business practices.

The ADR system will have a substantial number of harmful effects on resource allocation while the few beneficial effects could be achieved more simply and more fairly by other methods. The immediate effect of the change would be to lower the effective price of equipment capital. But since the reduction is not uniform over all industries or types of capital, for no valid reason resources will be reallocated to:

A. the capital (equipment) intensive industries;

B. those firms and industries whose actual useful lives exceed the minimum allowed life by the greatest amount;

C. manufacturing and utility industries and away from the housing industry, which still does not fulfill the national goal set by Congress.

Perhaps these misallocations could be tolerated if the ADR plan would lead to large increases in consumption in the long run, if it substantially improved American industry's technological position, or if it were an effective way to fight the current intolerable level of unemployment.

But in the long run the ADR plan will not greatly increase capital accumulation; thus, there will be only small increases in consumption and most of these increases will accrue to the wealthy. Moreover, the plan will tend to make businesses destroy useful capital too soon and for any given level of consumption have us use up even more quickly mineral deposits that are vanishing rapidly. Finally, the ADR plan will encourage the development of slums.

The ADR plans confer on those firms who use technologically outmoded equipment the same tax depreciation allowances as those who use technologically advanced equipment. Thus the ADR plan will reduce incentives for inefficient firms to modernize. Moreover, the complaint that the Reserve Ratio Test is biased against the introduction of new technology with shorter lives can be solved by allowing firms to use the "facts and circumstance" provision available under the current law whenever the taxpayer can demonstrate that a new technology has demonstrably shortened lives.

Secretary David Kennedy addressed himself to many of these same issues and in each such instance he agreed with our conclusion.² Thus, in transmitting the prototype of the ADR plan to Senator Javits, he said:

"In view of the admittedly great diversity of replacement policies among firms in the same industry and the still greater diversity between industries, an arbitrary system of capital allowances would necessarily result in inequalities in the tax treatment of private investment. For those taxpayers whose situation is (accidentally) accommodated by the prescribed allowances, no tax benefit would be derived; but for the greater number whose situation is not typical, tax benefits and penalties would result. Even if the periods for allowable cost recovery were sufficiently short that the depreciation deductions of substantially all taxpayers were increased, the degree of benefit to individual taxpayers would nevertheless vary, creating the same inequalities.

"An obvious expectation under a system or arbitrary capital allowances is that pressure from those who are either not benefited, or are actually penalized by the existing allowance system, would be continually exerted on the Congress and Treasury to 'liberalize' the allowances. (See the discussion below of the benefit to taxpayers of shortening lives and otherwise increasing the present value of depreciation deductions for an indication of the sizeable benefits from such liberalizations.)

"If the reserve ratio test were abandoned and all taxpayers permitted to use Guideline lives, some undeterminable revenue loss would doubtlessly result as those taxpayers who are now constrained from using the shorter Guideline lives by the reserve ratio test would adopt them. Moreover, this loss would be amplified in the short run if taxpayers were permitted to group their existing assets into Guideline classes and apply to them the higher depreciation rates implied by the Guidelines.

"If the reserve ratio test is abandoned and replaced by a system of arbitrary capital allowances, either by amendment of the Internal Revenue Code or by new regulations, the Congress and Treasury Department would be thrust into the role of arbiter of industrial asset replacement policy. By its determination of "the" useful life of particular assets, and assuming prescribed lives would be set intentionally low, the government would be affecting investment incentive.

"To the extent the economic circumstances in which taxpayers find themselves dictate they should employ asset replacement policies that yield above average actual useful lives within their industrial (guideline) classification, these taxpayers will be benefited by the use of arbitrary capital allowances; but other taxpayers who have found it economic to employ rapid replacement policies and for whom the arbitrary allowances would not permit capital recovery within actual asset lifetimes, would be forced to pay higher effective tax rates. There would appear to be no economic principle by which to justify providing an investment incentive to the former group and a disincentive to the latter.³ Indeed, this is recognized by advocates of arbitrary capital consumption allowances who generally recommend that taxpayers who can demonstrate that their economic circumstances warrant the use of shorter tax lives than are prescribed by statute or regulation be permitted to do so."

In the *Congressional Record*, vol. 116, pt. 19, p. 25688, Secretary Kennedy continues.

"As might be expected, depreciation liberalization provides a highly variable set of incentives. With the exception of substitution of the full-year for half-year convention, all conventional 'accelerating' policies tend to favor longer-lived as compared with shorter-lived assets. Thus, while depreciation liberalization constitutes a controllable investment incentive, it necessarily induces distortions of the pattern of private investment. Ironically, the distortions are most severe precisely in those instances when investment incentives may be expected to be effective, that is, in those industries which are capital intensive but which differ among each other in the expected useful lives of the assets they employ. Finally, investment incentives provided through tax depreciation policy necessarily favor large relatively to small businesses since so much of the value of the incentive is dependent on tax deferral and, hence, on the nominal tax rate."

And finally Secretary Kennedy in the *Congressional Record*, vol. 116, pt. 19, p. 25691:

"The difficulty with all this is specifying how much an increase in depreciation deduc-

tions would increase the rate of investment. In the first place, a change in depreciation policy would increase the demand for investment goods subject to the changed rules. How much is a matter of dispute. This could mean a net increase of investment or merely a diversion of investment from short to long lived assets. The experience under the investment credit was that much of the response to business investment incentives was diversion of savings from structures (housing and otherwise) to machinery and equipment, since structures were not eligible for the credit. Given some net increase in investment, it is still a matter of some dispute how much this increases real output, and thus the tax base.

"A further problem in all this is that there are other things that the government could do to increase investment, including spend more on education, spend more on research, reduce the corporate tax rate, etc. To talk authoritatively about the effect of a depreciation change, one would have to ask what were the growth effects of policies that might otherwise have been implemented with the foregone tax revenues.

"A further problem is that some of the depreciation alternatives offered would considerably favor one kind of investment over another. To the extent that some investment is diverted from what would have been more efficient uses, absent the new tax considerations, these could be an offset to induced growth."

As Secretary Kennedy noted, the ADR plan will stimulate investment in the short run but the effects will be small because of the large amount of excess capacity existing in industry today. The ADR plan is all the more improper because there are other ways to stimulate investment and to reduce unemployment. The Treasury has given no reason why consumption or government expenditures should not be encouraged. Even if investment is to be stimulated, the ADR plan is expensive because, dollar for dollar, a bigger impact can be achieved by announced temporary tax credits. It makes no sense to institute an unsound long run policy to achieve an expensive short run advantage.

Since firms can elect various depreciation schemes each year, detailed calculations will have to be made periodically, while more complicated records will have to be kept and audited. Thus the plan will complicate rather than ease the administrative problems of business tax collection.

It might seem difficult for a change in depreciation rules to wreak so much havoc, but the following pages will demonstrate these and other harmful effects. We first will indicate what the ideal properties of a depreciation system are, then we examine the reserve ratio test to indicate why it is a good approximation to the ideal. Finally, we will examine the economic effects of the various provisions of the ADR plan.

DEPRECIATION

Depreciation occurs for many reasons. Many machines such as drills are subject to wear and tear or loss in precision from being used in production. Both of these phenomena imply that the asset will produce fewer items of a given quality and (without repairs) generate less revenue as the machine ages. For other assets productive capacity declines merely because of the passage of time. For example, paint peels and pipes erode whether a structure is used or not. While an asset can maintain its physical capacity (at least with adequate repairs), the value can decline with age because of obsolescence. That is, newer, more efficient capital can be invented and introduced or customers can shift their tastes to other products.⁴ The tax laws allows a deduction for depreciation for all these reasons.

TABLE 1.—COMPARISON OF 2 METHODS OF DEPRECIATION FOR A 10-YEAR, \$1,000 ASSET—AND COMPARISON OF 2 TIME PERIODS UNDER THE STRAIGHT LINE METHOD: RESULTING VALUES OF DEPRECIATION ALLOWANCES

Year	Double declining balance (1)	Straight line (2)	Straight line, 8-year tax life (3)
1.....	\$200.0	\$100	\$125
2.....	160.0	100	125
3.....	128.0	100	125
4.....	102.0	100	125
5.....	82.0	100	125
6.....	66.0	100	125
7.....	55.5	100	125
8.....	46.5	100	125
9.....	39.0	100	0
10.....	32.5	100	0
Total.....	1,000.0	1,000	1,000
Present value at 6 percent.....	787.0	736	775
Tax value of depreciation allowances with 50-percent tax rate.....	393.0	368	387

The standard definition of income is the amount that could be consumed while leaving the value of capital or net worth unchanged. Since the tax law is based on income (or profits), it is appropriate and fair to require the tax law to allow depreciation as a deduction.

Any tax depreciation system permits the asset owner to deduct the price (unadjusted basis) of the capital from receipts over a period of time. But for the tax system to be fair and equitable, the tax depreciation allowance should equal economic depreciation in each time period.⁵ For example, for a \$1,000 asset with a useful life of 10 years suppose that the true depreciation pattern is that given in column 1 in Table 1 while the tax depreciation allowance is that given in column 2 in Table 1.⁶ Over the 10 years the two columns total \$1,000. But with a tax rate of 50%, the taxpayer will be overcharged (by 1/2 the difference in the two columns) for 4 years and then undertaxed in the remaining years. Thus in this situation the tax system causes the firm to raise extra capital in order to provide an interest free loan to the government. With a discount rate of 6%, the loan would be equal to 2.5% of the purchase price of the asset.⁷ Of course, if column 1 were the tax depreciation and column 2 were the true depreciation, the government would be giving an interest free loan or a subsidy to the taxpayer. In Secretary Kennedy's report, similar examples based on the same type of analysis are given.

The above example indicates that it is necessary that the tax and economic depreciation schedules coincide if the tax law is to treat asset holders with the same rate of return and income equally.⁸ There are several other conditions that the tax depreciation system should also satisfy. If the asset life allowed for tax purposes is shorter than the economic life, for any given depreciation schedule more depreciation will be claimed in the early years.

In column 3 we have recalculated the straight line depreciation deduction if the life is reduced by 20%. With a 6% discount rate and 50% tax rate, such a change in lives would increase the value of depreciation allowances (or reduce the amount of tax payments) by \$19 and therefore yield a subsidy equal to almost 2% of the price of the asset. *With the ADA plan, tax payers would be able to use both the shorter lives and the double declining balance depreciation system.*

To have the annual amount of tax and economic depreciation coincide, it is necessary to have the tax depreciation schedules and lives agree with the corresponding eco-

Footnotes at end of article.

conomic magnitudes (and to be applied to the same value for the asset). In order to implement this ideal system, it is necessary to have information on annual depreciation and tax lives.

For those few assets which are traded on second hand markets it is possible to obtain information on both the (average) amount of depreciation per year and (average) useful lives. For example, as most American families know all too well, an automobile's value declines about 40 percent in its first year of use and each year thereafter loses about 25 percent of its remaining value. While some cars are destroyed before others, the average life of a car is about 5 years and few endure beyond 10 years. Relatively few business or consumer assets are traded on second hand markets; hence, it is not generally possible to obtain such information. In the 1950's, however, Terborgh was able to show for a very few types of equipment that depreciation was quicker than that permitted by the straight line method. Convinced by this information, Congress in 1954 exercised its prerogative and authorized firms to use the "accelerated" depreciation methods of "double declining balance" and "sum of the year's digits".

The 1962 depreciation reform

While this liberalized depreciation schedule was considered a step in the right direction, many people were convinced that the tax lives allowed in *Bulletin F* were too long. The Treasury, therefore, undertook a massive study based on company records to determine useful lives (or survival rates) for various assets. As might be expected, there was a substantial variability in useful lives for different types of assets and even for comparable types of equipment in different companies. This Treasury study resulted in a new policy on depreciation charges and economic lives.

First, a set of guideline lives were issued, but only for reasonably broad categories.⁹ Second, the so called "Reserve Ratio Test" was instituted to determine if the lives taxpayers were claiming—whether equal to the guidelines or not—were consistent with their actual lives.

Since the ADR plan is centered around the guideline lives in *Revenue Procedure 62-21*, it is important to consider how the guidelines were set. The Treasury exhaustively analyzed data from more than 1000 companies on lives of different types of assets. In addition, data were gathered from tax returns, interviews with spokesmen for various industries, and from foreign countries. For each of the broad classes of assets, the Treasury generally selected the lives used by firms at about 30th percentile (after ranking firms in order of those with the shortest to those with the longest useful lives). Even lower percentiles were chosen when there were foreseeable changes in technology that would further shorten lives through obsolescence. Thus the guideline lives were shorter than those used by most firms (i.e. firms on the short side of the 50th percentile were chosen).

Even with the 1962 reform, there is every reason to expect that actual lives would still differ from one firm to another. Not only is there the variability for specific assets noted earlier, but the Treasury only specified estimates for broad asset and industry groups within which there are important differences in types of equipment and their utilization rates.

Therefore the 1962 reform also instituted a test to determine if the useful lives claimed for tax purposes by a firm corresponded to the actual lives. This "Reserve Ratio Test" is based on the relationship between the original purchase price of all assets with a given tax life and their accumulated depreciation.

The test incorporates the principle that once the asset is retired, both its purchase price and accumulated depreciation are removed from the asset and depreciation accounts. For example, suppose that the tax life of an asset is ten years and that in each year for the past 20 years, the firm has purchased \$1000 of this asset. If the actual useful life is 10 years, only assets purchased in the past 10 years will be in the reserve and the investment account. Suppose that straight line depreciation is used. Then (at the end of the year) assets 10 years old will have 100% of their purchase price in the depreciation reserve, while those 9 years old 90%, etc. With equal investment in each year, the depreciation reserve should be equal to one-half of the purchase price of the asset. Suppose, now that in the above example, the actual useful life is 20 years. Since the assets 11-20 years old are in use, they will remain in the asset and reserve accounts though their accumulated depreciation is 100%. With these assets, the ratio of the depreciation reserves to the asset account would rise to 75%. Thus the ratio of the reserves to the asset account indicates whether actual lives equal taxed lives.¹⁰

Since investments and retirements do not follow a smooth, unalterable pattern, the Treasury allowed firms to deviate from the conforming ratio value by 20%. A recent exhaustive study by the Treasury has indicated that even with very irregular patterns of growth, investment, and retirement the Reserve Ratio Test would never indicate non-conformity when a firm was conforming, but would nearly always indicate non-conformity when it occurred.¹¹ Thus the Reserve Ratio Test provided a simpler and more uniform method than that obtainable from IRS agent surveillance over and negotiation with a firm to insure that depreciation charges were reasonable.

The "asset depreciation range" (ADR) plan

The ADR plan recently proposed by the Treasury Department makes two important changes in the 1962 procedures. First, the Reserve Ratio Test is eliminated and, second, firms are allowed to choose any tax life in the range of plus and minus 20% of the 1962 guideline lives. As shown earlier the taxpayer can obtain an interest free loan or subsidy from the government by choosing the shortest possible tax life (unless it is a new firm expecting early losses). A 20% reduction in lives may not seem important, but as shown earlier a reduction by this percentage amounts to a 2% decrease in the price of the asset. More importantly, the previous discussion indicates that the actual lives would greatly exceed the tax lives for many firms because of the different replacement policies of firms and because the Treasury only established lives for broad industry and asset groups within which there can be substantial variation. Thus it is quite possible for some firms to be given a 50% or 75% reduction in tax lives.

There are several other features of the Reserve Ratio Test that are relevant to the new ADR plan. First, because depreciation policy had been in part determined by agent-taxpayer negotiation and by tradition, the reserve ratio computed in 1962 need not have been in conformity with new lives chosen by firms. For this reason a transition period was allowed during which firms were supposed to be moving towards conformity of tax and actual lives. This transition period was supposed to be over in 1965, but a study at that time indicated that few firms could meet the Reserve Ratio Test.

Hence the transition period was extended so that firms need only reduce their deviation from the expected ratio by one-third during a period equal to half of the guideline life and two-thirds in the second half of the guideline life. However, even after the passage of nearly a decade many companies have

not moved towards meeting the Reserve Ratio Test. Thus, the elimination of the test will reward those who have been flagrantly understating the useful lives of their assets and knowingly flouting the requirement that they move toward conformity. Many of these same persons have been lobbying to bring about a change in the Reserve Ratio Test which Congress has let stand for almost a decade. Further, Congress recently acted to terminate the investment credit, which had benefited industries similar to those which would benefit from ADR. These lobbying efforts should not be permitted to succeed with the Treasury where they have failed with Congress.

Second, the Reserve Ratio Test was designed to replace the system in which a revenue agent administered the provision allowing deduction of a "reasonable allowance" without substantial reference to objective reality. The ADR plan not only does away with the Reserve Ratio Test, but it makes wholly unnecessary any effort on the part of agent or firm to relate tax lives to the actual lives. Thus, the requirement that depreciation be fair and reasonable is eliminated.

Third, it is sometimes claimed that the Reserve Ratio Test, which used past data on assets, depreciation, and lives does not allow for current technological (and other) developments that shorten lives. To the extent that the Reserve Ratio Test is the sole guide to tax lives, this criticism is true. But the procedure allows other "facts and circumstances" to be used to set lives. Whenever there is an event which demonstrably will shorten lives, the firm could base the tax lives of its assets on the circumstances. In any event, there is no justification for decreasing lives on all assets just because a few changes may have been desirable.

While the most obvious features of the ADR plan are elimination of the Reserve Ratio Test and the permission to use lower lives, there are several other provisions which also will unjustifiably reduce the tax bill of favored businesses. First, there is the modified half year plan under which firms can claim a full year's depreciation on assets put in use in the first half of the firm's tax year and a half year's depreciation on assets put in use in the second. If assets are purchased evenly throughout the year, this provision will allow firms to deduct three-quarters of a year's depreciation in the first year rather than one-half as under current rules.

In the last year of the asset's life depreciation will be reduced by a corresponding amount. For an asset with a ten year life depreciated by the straight line method, the postponing of taxes for 10 years on one-quarter of the first year's depreciation is the same as reducing the price of the asset by about one-half of 1%.¹²

Another advantage to businessmen is contained in the ADR's new provisions on salvage value. If an asset will be sold after, say, 10 years, then the earlier discussion on the ideal depreciation system would indicate that during the 10 years the original price less salvage value (P-S), should be depreciated. Under existing rules if the straight line method is used, in each year firms would deduct 1/10 (P-S). The ADR plan lets the firm deduct 1/10 (P) in each year until the accumulated depreciation equals (P-S). Thus if P is \$1000 and S is \$100, a standard treatment with straight line depreciation is to allow a deduction of \$90 per year for 10 years; the ADR permits a \$100 per year deduction for 9 years. With a 50% tax rate and a 6% discount rate, the change in the timing in taxes is equal in value to nearly 1% of the price of the asset.

Even with the provision that firms base depreciation on P and accumulate until the reserve equals (P-S), it is advantageous for firms to understate S to postpone taxes whenever the date of sale would exceed the tax life. The ADR plan requires firms to estimate

Footnotes at end of article.

S but allows them to understate the estimate by an amount equal to up to 10% of the price of the asset. This understatement is in addition to the 10% reduction allowed in section 167.

A third tax postponing device is the proposed rules on the expensing of improvements. Those which either increase the life of the asset or provide services for more than one year are in actuality additions to capital; they are an investment not an expense. The new rules permit a firm in each year to treat as a current deduction (for certain of these expenditures) an amount equal to one year's straight line depreciation. Thus in the above example a firm could treat up to \$100 a year as an expense. If the expense should be amortized over 10 years, then (with a 50% tax rate, a 6% discount rate, and straight line depreciation) firms would receive an interest free loan of about \$12.

Finally the ADR plan extends the tax reduction benefits to utilities provided the utilities use the "normalization method of accounting" in which the tax savings are shown as a deferred liability. P. Linhart of AT&T recently examined the effects of tax depreciation rules on utilities.¹³ His conclusion was that, provided utilities are not allowed to earn a return on the normalized returns (which in effect are an interest free loan), a subsidy would not increase the stockholders' return but would lower customer rates. However, normalization does not require firms to reduce their rate base and if they do not, stockholders would benefit from this treatment.¹⁴

Efficiency effects of ADR

The above discussion has indicated how the new plan would confer substantial benefits on businessmen. But because of these new benefits we can expect businessmen to change their investment plans and production processes. In this section we will discuss the many harmful effects that may result from ADR.

The ADR plan will alter the allocation of resources between consumption and investment, between different types of investment, between old and new equipment and between the haves and have-nots. In analyzing these categories, it is useful to distinguish between effects at full employment and at less than full employment.

A. Long run, full employment effects

While at present there are clearly substantial amounts of unemployed resources, the long run effects of the ADR plan are best examined by assuming the plan returns the economy to full employment. The full employment effects can be divided into two parts—changes resulting at a given amount of output and increases in output because of the policy.

The ADR plan contains several features which increase the profitability of investment. Assuming businessmen try to maximize their profits, they will want to purchase more investment goods. But with resources fully employed, more resources for investment can only be obtained by reducing consumption, government expenditures, inventories, or investment in structures.¹⁵

The mechanism by which this reallocation will occur is threefold. First, the government must finance the tax reduction to businesses by reducing government expenditures, increasing other taxes, or issuing money and bonds. If income taxes are increased, it will reduce consumption and investment in housing. If money is issued the resulting price rise which erodes income (and wealth) will reduce consumer expenditures especially for those with fixed incomes. If bonds are issued, interest rates will increase and investment in structures and perhaps consumption will fall. With an interest rate or income tax increase

or inflation, a major burden of the tax will fall on housing. Thus the ADR proposal is not simply a tax break for business. It is also a Treasury dictated reordering of national spending priorities—toward investment in equipment and away from housing. As such it further postpones what should be an urgent national commitment (one made over 20 years ago in the Housing Act of 1949) to provide decent housing in a suitable living environment for every American family.

Second, because of the subsidy, businessmen can afford to pay higher prices to obtain resources. The higher prices of equipment will be translated into higher prices for steel, etc., which in turn will lead to a decrease in consumption and housing demand. Since most business equipment is placed within a structure, it is likely that the price increase mechanism will draw its resources from housing, which has similar raw material and labor requirements.

Third, businesses will also find it worthwhile to bid up interest rates to obtain funds. While the higher interest rates may induce some people to consume less and save more, the major impact of such a policy will be to divert funds from other investments and particularly housing. Thus the effects of all these mechanisms is to reduce housing investment despite the fact that we still are not meeting the national goal of 2.7 million units a year. Of course Congress could offset the deleterious effect on housing by other programs, but Congress should first decide if it wants the ADR plan.

While investment will be made more profitable, the ADR plan is more generous to some categories of investment or firms than others. As explained earlier, the guideline lives are only specified by broad investment and industry classes. Those goods whose actual lives exceed the guideline lives by the largest amount will receive the most benefit. Hence these assets or industries will be expanded relative to other assets or industries. But one criterion of tax policy is that any tax should be neutral between industries or goods unless there is a divergence between social and private costs or benefits.¹⁶ In this case there is no correspondence between the differential tax advantages and such divergences. Thus the ADR plan will cause a misallocation of resources and will reduce social welfare.

The ADR plan not only gives various industries and goods different advantages but it gives a greater advantage to those firms in an industry which follow the most conservative replacement policy. This particular feature of the plan has an extremely perverse effect. Assume that two firms produce the same output, but that because of poor management one firm retains equipment too long. This inefficient, technologically backward firm should be encouraged to modernize. The best ways to force it to modernize are for the owners of the firm either to realize that the other firm is making extra profit with its newer equipment, or for the other firm to charge less and take over the market. Under the current system, the inefficient firm bears two burdens: the firm has higher operating costs and it pays a higher effective tax rate since it cannot use the shorter tax lives of the more efficient firm. Under the ADR plan the inefficient firm is rewarded for imposing higher costs on the economy by having its tax burden lightened. Thus the ADR plan contains less incentive for modernization.

As noted earlier, the ADR plan can lead to higher rates of return to capital, which can lead to an increase in saving. The plan could also affect saving by two other means. First, ADR would redistribute (after tax) income to the wealthy and away from the poor and middle class. But there is some evidence that (on the average) from any marginal tax change the wealthy save more than the poor. Second, the ADR plan will give a windfall increase to the value of stock holdings. To the extent that saving is undertaken to achieve a certain level of assets, the

windfall would reduce the need for saving. Suppose, however, the overall effect of the ADR plan was to increase saving.

Then, indeed, the amount of both investment and (in the long run) consumption would increase. Studies of the effect of other investment subsidies indicate, however, that such gains probably will be quite small¹⁷ and that nearly all of the increase will be captured by the wealthy. The effects are small primarily because saving is not very responsive to either interest rate changes or income redistribution. (The detailed analysis is given in Appendix A.)

An alleged benefit of ADR is that it will make American manufacturers more competitive with foreign producers through the more rapid introduction of new technology embodied in equipment. This is a strange concern of policy makers since the United States generally has a merchandise trade surplus. In any event, the ADR plan may not accomplish the goal of modernization. While the small increase in the investment rate will cause a reduction of the average lives of equipment in use, it was shown earlier that the ADR plan imposes less pressure on inefficient (non-profit maximizing) firms. Moreover, the modernization effect is offset by two other considerations. First, the slower growth in housing improvements will lead to more slums. Second, it can be shown that the type of subsidy given by the ADR system will induce firms to destroy too early equipment that should be used longer.¹⁸ While such early destruction would lower the age of equipment, for any given flow of investment there will be a smaller capital stock and a reduction in consumption. Thus to maintain a given rate of consumption, the ADR will force us to waste our precious nonrenewable natural resources.

B. Short Run Effects

Now let us consider the short run effects of the ADR plan. Investment in equipment may be stimulated because of the increase in profitability already discussed and because of the increase in cash flow. While there have been a fairly large number of econometric studies of the effect of depreciation and of the investment tax credit on the demand for investment, there is yet no consensus on the effects over a short period (say two or three years). It does seem clear, however, that during the next year the ADR plan would have little beneficial impact on unemployment. With firms currently operating at less than 80% of capacity, there is little need to add more of the same capacity.¹⁹ That is, the absolute level of profitability is quite low and will still be so after the subsidy. Of course, the subsidy could induce firms to substitute a more capital intensive production process. But the introduction of a newer process may be delayed, because 1) there will have to be some planning to coordinate the meshing of the old and new, and 2) the decision to retire one type of capital that is still usable and install another involves a more stringent rule than simple relative profitability. Specifically, the old asset should be replaced if the total annual cost of the new process is less than the variable cost of the old process.

If the goal is to get the maximum amount of investment per dollar of tax subsidy this year, Congress might enact a temporary tax credit that applies only to goods ordered this year. Such a temporary credit is more effective than the ADR plan because firms will realize that if they wait until next year to order the investment good, the price will be higher. Thus, even with excess capacity, firms would accelerate orders and stimulate the economy now.

Finally, it is not clear why the stimulation to the economy should be accomplished only with investment rather than by a balanced approach that also stimulates consumption and government expenditures. The ADR plan initially will increase employment for people primarily connected with the equipment

industries; consumption and expenditure increases would spread employment more generally.

FOOTNOTES

¹ The \$4 billion figure given by the Treasury does not allow for substitution of capital for labor, a primary means by which the economy is supposed to benefit from the new proposal; hence, the costs of the proposal have been understated. In addition certain of the components of the ADR plan have no price tag attached to them.

² This analysis was prepared for Common Cause primarily by Dr. Paul J. Taubman (Associate Professor of Economics, Wharton School of Finance and Commerce of the University of Pennsylvania and Research Associate, National Bureau of Economic Research).

³ *Congressional Record*, vol. 116, pt. 19, p. 25686.

⁴ Emphasis added.

⁵ This category includes the case in which the products of newer structure have more status attached to them.

⁶ If the depreciation allowance is more than economic depreciation the taxpayer is taxed on less than his income. This is inequitable, since, in accordance with Congressional mandate under the income tax laws, taxpayer liability is based on actual income.

⁷ Column 1 is the double declining balance method with a switch over to straight line after 6 years while column 2 is straight line depreciation.

⁸ Calculated as the difference in the tax value of the depreciation allowances divided by the price of the asset.

⁹ The most commonly used tax depreciation schedules are straight line, double declining balance, and sum of the years digits.

¹⁰ These new lives had a median value of 13 years compared to 19 years under *Bulletin F*.

¹¹ The value of the ratio that indicates conformity is different but known if double declining balance or sum of the years' digits depreciation schedules are used or if the company is growing.

¹² See Richard Pollock, "Tax Depreciation and the Need for the Reserve Ratio Test" Policy Research Study Number Two, Department of the Treasury, 1968. The study did find one error in the original test; the error was correctable.

¹³ Assuming a 50 percent tax rate and a 6 percent discount rate. With higher discount rates or accelerated depreciation methods the subsidy value would rise. The subsidy is greater, the shorter is the life.

¹⁴ P. Linhart "Some Analytical Results on Tax Depreciation" *The Bell Journal of Economics and Management Science*, Spring 1970, Vol. 1.

¹⁵ See *Senate Hearings on the 1969 Tax Reform Act*, P. 173.

¹⁶ The new plan does not apply to structures.

¹⁷ A good example of such a divergence is pollution.

¹⁸ Taubman and Wales (Appendix A) studied the effects of a change from straight line to sum of the years' digit tax depreciation and the investment tax credit. They found that the long run increase in consumption from these subsidies was less than 1 percent. Most of the increase accrued to the wealthy, and in some instances workers' consumption declined. The other major effect of the subsidies was a very large increase in the interest rate.

¹⁹ See Appendix B.

²⁰ One notable exception is the public utilities, which are currently operating near full capacity and whose suppliers probably could not make more goods currently.

APPENDIX A.—THE HISTORY OF THE USEFUL LIFE REQUIREMENT IN SECTION 167

It is clear from the statutory history of section 167, from judicial decisions, and from longstanding administrative practice

that annual depreciation deductions must be spread over the asset's actual "useful life" in each taxpayer's business. The concept was firmly and unambiguously established in the early revenue acts and regulations, has been consistently employed in administrative practice over the past sixty years, and has been reaffirmed in the Congress and the Supreme Court. In recent years, the term has been employed in numerous places in the Internal Revenue Code in contexts that permit no other interpretation but that the useful life must relate to the facts and circumstances in each taxpayer's business.

A. *Early Revenue Acts and Regulations.*—The Excise Tax Act of 1909,¹ provided for "a reasonable allowance for depreciation of property, if any."² The italicized proviso indicates that depreciation deductions would only be allowed where some showing of depreciation was indicated in the particular taxpayer's business. Accordingly, the allowance for depreciation was interpreted in a Treasury regulation to permit deductions for depreciation arising "out of the use to which the property is put."³

The first income tax adopted after the passage of the 16th amendment in the Revenue Act of 1913 retained the idea of depreciation based on an asset's use by each taxpayer. Individual taxpayers were permitted to deduct from income "a reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in the business."⁴ Corporate taxpayers were permitted "a reasonable allowance for depreciation by use, wear and tear of property, if any."⁵ The regulations provided that the estimate of depreciation "should be formed on the assumed life of the property, its cost, and its use."⁶ Annual allowances should be claimed with respect to, and deducted from income during, "the life of the property." The aggregate of these allowances, plus the salvage value of the property, should equal its original cost "when the property is worn out, exhausted and obsolete."⁷

In the Act of September 8, 1916, (as amended without change to the depreciation section by the Act of October 3, 1917) the depreciation provisions in the statute for both individuals and corporations were modified again. Both sections provided for a reasonable allowance for depreciation of property "arising out of its use or employment in the business or trade . . ."⁸ Again, in the regulations, the relationship between the depreciation allowance and an asset's actual period of use was made even more explicit. The regulations governing corporate taxpayers provided that, in general, the deduction for an asset's depreciation "shall be computed upon . . . the probable number of years constituting its life . . ."⁹ In the case of buildings, the regulations provided that the "allowable depreciation shall be determined solely upon the estimated life of such building . . ."¹⁰ and in the case of oil and gas properties, the regulation provided that the annual deductions for an asset should be "equitably distributed over its useful life."¹¹

In the Revenue Act of 1918, the statutory provision was reenacted, again with minor modifications, to read essentially as it does today. The enactment followed the revision of the depreciation regulations quoted above by less than a year. In the identical sections governing corporations and individuals the statute provided:¹²

a reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence.

Although the original statutory language in the 1913 and 1916 Acts permitting depreciation for an asset "arising out of its use or employment in the business" was replaced by

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the words "used in the trade or business", the regulations adopted contemporaneously and formally in effect until 1941 retained the original emphasis on depreciation over the period the asset was actually used by the taxpayer. The regulation, adopting the present "useful life" terminology provided:¹³

"The proper allowance for . . . depreciation is that amount which should be set aside for the taxable year in accordance with a consistent plan by which the aggregate of such amounts for the useful life of the property in the business will suffice, with the salvage value, at the end of such useful life to provide in place of the property its cost . . ."

"The capital sum to be replaced should be charged off over the useful life of the property either in equal annual installments or in accordance with any other recognized trade practices such as an apportionment of the capital sum over units of production."

This formulation has become standard. It is substantially identical to the present regulation¹⁴ and with minor contextual variations has been adopted by the courts to describe the requirements of the depreciation provision of the Code.¹⁵

This brief description of the language in the depreciation sections of the early revenue acts, and their elaborations in the regulations, clearly reveals that depreciation was consistently intended to be taken over the useful life of property in the taxpayer's business, and that the useful life would vary from taxpayer to taxpayer according to the uses to which such property was put. Under the elementary canons of statutory construction, the fact that the Treasury's regulations reflected the original statutory language of the 1913 and 1916 acts were promulgated contemporaneously with the enactments of the early revenue acts, and have continued essentially unchanged since 1918, together fix this conception of useful life in the Internal Revenue Code as surely as if the term had been expressly defined in the statute. Moreover, the fact that Congress reenacted the depreciation provisions in these early acts in the light of the language in the regulations confirms this interpretation.¹⁶ Commentators have expounded at great length over the appropriate use of regulations in construing statutes¹⁷ cautioning, with reference to the "reenactment rule", that statutory provisions are often reenacted with little or no attention given to their administrative construction. Yet the circumstances that all of them prescribe for an appropriate application of the reenactment rule are present in this case. In 1913, 1916 and 1918, the same Treasury draftsmen were the architects of both the statutory provisions and the regulations interpreting them.

The sections were not casually reenacted, but were slightly modified and refined in each successive act. Each passage was preceded and followed within a short time by revised regulations. Through all these early modifications in both the statute and regulations, the idea that depreciation depended on the period that property was actually used in a taxpayer's business remained intact. Indeed, the idea was expressed with increasing specificity and exactness in each succeeding set of regulations. Thus, at the time of the earliest revenue acts, the consensus that depreciation must be spread over an asset's useful life in the taxpayer's business had become well established. Nothing has occurred since in Congress, in the Treasury or in the courts, to alter this understanding.

B. *Congressional, Administrative and Judicial References to Useful Life.*—Two times since the enactment of the early revenue acts in 1933 and 1954, Congress has reexamined the meaning of the "reasonable allowance" with reference to the "useful life" concept. The Treasury has on three major occasions, in 1942, 1956 and 1963, refined or clarified techniques for estimating useful lives. And

in 1960, the Supreme Court discussed the meaning of "useful life" at length. Without exception, Congress, the Treasury and the Court have emphasized that the term referred to asset lives in a taxpayer's own business.

1933: Congress. In the 1930's, when public works created a pressing need for increased federal revenues,¹⁷ a subcommittee of the House Committee on Ways and Means noted the "extent to which taxable net income [had been] reduced by deductions for depreciation and depletion."¹⁸ A Treasury study revealed that many taxpayers had taken such large depreciation deductions that they had "built up reserves which [were] out of proportion to the prior exhaustion, wear and tear of their depreciable assets . . ." Unless the trend were reversed, these taxpayers would completely recover the basis of these assets "before the actual useful life of the assets [had] terminated."¹⁹

The reaction in Congress was unambiguous. Any depreciation deduction which permitted capital recovery over a period shorter than an asset's actual useful life was termed "excessive" by both the House Committee on Ways and Means and by the Treasury,²⁰ and was referred to as an "unreasonable allowance" in the Report of the Senate Finance Committee,²¹ and on the floor of the House.²²

Two solutions were offered to remedy the situation. The Treasury proposed through administrative action to "reduce depreciation deductions substantially, so that depreciation will be reduced by the amount it was excessive in prior years."²³ On the other hand, the subcommittee of the Ways and Means Committee concluded that challenging the allowances of each individual taxpayer would be difficult because "the magnitude of such allowances depends on the life of the property, a very uncertain factor . . ."²⁴ and recommended that all depreciation deductions be reduced by 25% across the board for the succeeding three years.²⁵ The Ways and Means Committee accepted the Treasury's proposal, concluding that the reduction of depreciation deductions for those taxpayers whose allowances had been excessive "would give greater equity . . . [than] the subcommittee plan."²⁶

Although the episode did not produce any change in the statute, it does reveal first, that Congress interpreted the statute to require that depreciation be taken over an asset's entire useful life. It also reveals, in the Ways and Means Committee's refusal to adopt across the board reductions, a Congressional unwillingness, either in the name of administrative convenience or fiscal considerations, to deviate from useful life depreciation based on the experience of the individual taxpayer.

To interpret the Congressional activity as condoning broad Treasury discretion, as the brief submitted for the American Machine Tools Industry does, is to miss the point of the Congressional reaction. Before 1934, taxpayers had claimed their depreciation deductions under a regulation which, though proclaiming in general language that the burden of proof was on the taxpayer to show that his depreciation allowance was reasonable, also noted that "such deductions will not be disallowed unless shown by clear and convincing evidence to be unreasonable."²⁷ This language effectively put the burden of proof on the Treasury in challenging taxpayers' depreciation allowances and had led to slack enforcement of the provision.

When Congress discovered that the administrative posture had permitted excessive depreciation deductions, it eschewed legislative action on the condition that the Treasury would carry out its proposed administrative action to insure that deviations from useful life depreciation would not recur. The statu-

tory history of the reenactment of the depreciation section thus reveals a Congressional purpose to assure the Treasury's adherence to the useful life principle, and strong Congressional disapproval of the kind of administrative permissiveness the Treasury now seeks to introduce in the ADR system.

1942: Treasury. In 1942, the Treasury issued guides to Internal Revenue Agents to facilitate the calculation of useful lives. As revised in that year, Bulletin F included detailed schedules of suggested useful lives for almost all kinds of depreciable property. Although based on industry averages, Bulletin F lives were not intended to be substituted for the actual useful life estimates used by individual taxpayers. The title page of the Bulletin made the emphasis that it had not abandoned the prevailing notion that depreciation must be calculated on the useful lives of assets in the taxpayer's business.²⁸

"Taxpayers and officers of the Bureau are cautioned against reaching conclusions in any case solely on information contained herein and should base their judgment on the application of all pertinent provisions of the law . . . to all the facts in any particular case. The estimated useful lives and the rates of depreciation indicated in this bulletin are based on averages and are not prescribed for use in any particular case. They are set forth solely as a guide or starting point from which correct rates may be determined in the light of experience of the property under consideration, and all other pertinent evidence."

In conformity with this caveat the Tax Court has required a showing of facts of a taxpayer's own experience to justify the application of Bulletin F.²⁹

1954: Congress. Congress addressed itself to the question of useful life depreciation again in the enactment of the Internal Revenue Code of 1954, where the term appears in the statute for the first time. In the 1954 amendments Congress specifically authorized the computation of depreciation allowances by accelerated methods in section 167(b) (2), (3), but limited the application of those methods to assets with "useful lives" of three or more years in section 167(c). Other consistent methods of calculating accelerated depreciation were permitted in section 167(b) (4), so long as the deductions did not exceed the allowances that would have been allowable under the double declining balances method during the first two-thirds of the "useful life" of the property. Section 167(b) (4). Finally, and most importantly, to facilitate the estimation of useful lives and ease administration, Congress authorized the Secretary of the Treasury and individual taxpayers to establish a mutually satisfactory estimate of the "useful lives" of any of the taxpayer's assets by written agreement.

There are no hints in the statutory history that the term "useful life" meant anything other than "useful life of an asset in the taxpayer's business." The House Ways and Means Committee, in reviewing the meaning of useful life, did not purport to change it.³⁰

"Present law allows as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear of property . . . over the years it is used in a business. The annual deduction is computed by spreading the cost of the property over its estimated useful life."

On the contrary, the availability of the newly-introduced accelerated methods turned on the accurate estimation of an asset's useful life.³¹ And the addition of § 167(d), providing for written agreements on useful life estimates between the Treasury and any individual taxpayer, obviously contemplates an examination of useful lives in each taxpayer's business. The section provides:³²

"Where . . . the taxpayer and the Secretary or his delegate have . . . entered into

an agreement in writing specifically dealing with the useful life and rate of depreciation of any property, the rate so agreed upon shall be binding on both the taxpayer and the Secretary in the absence of facts or circumstances not taken into consideration in the adoption of such agreement."

The italicized words refer to an agreement between an individual taxpayer and the Treasury, with respect to specific property. The validity of the agreement as to useful lives and the possibility of altering the agreement, moreover, turn on facts and circumstances in each taxpayer's experience.

The present regulation, which the Treasury does not now propose to amend, retains this emphasis. Applications for agreements must include descriptions of the character and location of depreciable property, its estimated useful life and salvage value, its rate of depreciation, and all other "facts and circumstances pertinent to making a reasonable estimate of the useful life of the property."³³ Indeed, in practice, revenue agents have often inspected a taxpayer's plant before entering into such agreements.

In addition to adding provisions to the Code which included specific references to useful life, Congress in 1954 also considered but expressly declined to adopt a "10-percent leeway" rule to facilitate the estimation of useful lives of assets in each taxpayer's business. The House version of the bill provided that unless the useful life used by the taxpayer differed by more than 10 percent from the useful life determined to be correct by the Treasury, the life adopted by the taxpayer would not be disturbed.³⁴ The proposal was intended to facilitate the administration of the section by providing a "specific zone of administrative tolerance" within which the taxpayer would be guaranteed immunity from an IRS audit.³⁵ The Senate deleted the provision on the ground that the protection afforded by the rule was considered "inadequate and unsatisfactory by some taxpayers and might be a substantial source of misunderstanding and distortion."³⁶

Testimony in the Senate Hearings reveal that the major taxpayer concerns were (1) that the 10-percent range was simply too small (25% usually being considered minimally acceptable);³⁷ (2) that revenue agents might arbitrarily adopt useful life estimates more than 10-percent away from the taxpayer's estimate;³⁸ or (3) that the Treasury's determination might be based on Bulletin F lives, which were thought to be too long to be accurate estimates of most taxpayers' useful lives.³⁹ Beside the fear that the 10-percent leeway rule was inadequate or would introduce administrative difficulties of its own, Congress recognized that the rule might authorize Treasury challenges to taxpayer estimates on the basis of guidelines that did not reflect useful life estimates in the taxpayer's own business.

The rejection of the proposed rule therefore not only reflects doubts about its practicality, but also that it might encourage deviations from a system of useful life depreciation for each taxpayer.

The explicit rejection, in Congress, of a proposal to establish a "range" of tax lives, running from 10% below to 10% above a Treasury determination within which taxpayers would be immune from an IRS audit, casts serious doubts on the Treasury's authority to adopt asset ranges deviating from Treasury determinations by 20%. Indeed, the 1954 Senate Report indicated that even the 10% tolerance would be unnecessary since "recent announcements" of administrative policy by the IRS to challenge determinations of useful lives only when there was a clear and convincing basis for doing so,⁴⁰ would suffice to "afford taxpayers freedom from arranging minor changes which would disturb the original estimates of service life."⁴¹

Parentetically, it may be added that the rejection of the 10% rule equally undermines

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the 10% tolerance the Treasury is seeking to add to salvage estimates.

1956: *Treasury*. In 1956, the Treasury elaborated on the concept of useful life to the taxpayer more pointedly than any previous single statement by the Treasury or by Congress. Under the Regulation adopted in that year, useful life is "not necessarily the useful life inherent in the asset, but is the period over which the asset may reasonably be expected to be useful to the taxpayer in his trade or business or in the production of his income."

Factors to be taken into account in estimating useful life include:

"(1) wear and tear and decay or decline from natural causes, (2) normal progress of the art, economic changes, inventions and current developments within the industry, and the taxpayer's trade or business, (3) the climatic and other local conditions peculiar to the taxpayer's trade or business, and (4) the taxpayer's policy as to repairs, renewals, and replacements."

The Regulation goes on to say:

"If the taxpayer's experience is inadequate the general experience of the industry may be used until such time as the taxpayer's own experience forms an adequate basis for making the determination. The estimated remaining useful life may be subject to redetermination . . . only when the change in the useful life is significant and there is a clear and convincing basis for the redetermination." Reg. 1.167

Several observations are appropriate regarding this Regulation. First, it embodies much of what was implicitly accepted in prior administrative practice. The Regulation enumerated the kinds of factors that would vary from taxpayer to taxpayer that should be made the basis for determinations of useful life. Indeed, the taxpayer in fact is permitted to rely on industry-wide depreciation rates instead of his own experience, *only until* his own experience provided a better basis for making an estimate.

Second, the regulation is important as an administrative interpretation of the statute which is substantially identical to the construction of the statute by the Supreme Court, independent of the regulation. In *United States v. Massey Motors, Inc.*, 364 U.S. 92 (1960), the Court concluded that a taxpayer's estimation of depreciation for the taxable years 1951 and 1952—years prior to the adoption of the regulation—must be spread over the estimated useful life of the assets in his own business. Although the *Massey* court applied the statute to the taxpayer directly, its construction of the statute so paralleled the language of the Regulation adopted in 1956 that the dissent accused the Court of applying the regulation retroactively. 364 U.S. at 108 (Harlan, J., dissenting). The majority's response was that the regulations merely reflected sound statutory construction. In a companion case, *Hertz v. United States*, 364 U.S. 122 (1960), involving taxable years after the promulgation of the 1956 regulation, the Court upheld the regulation as applied but added: "44"

"Moreover, the regulation can only carry out the fundamental concept of depreciation—that it is allowable only in such amount, together with salvage value, as will effectuate the recovery of cost over the period of useful life . . ."

Finally, the regulation is important because it preceded two important statutory changes in the treatment of depreciable property, the addition of 20% additional first year depreciation for small businesses in 1958, and the adoption of the investment credit for investment in depreciable property in 1962. Although both of these enactments are discussed in some detail below, it should be noted here that both contain references to useful life, and the Committee Reports accompanying both enactments treat useful

life in language similar to that contained in the Regulation. It is therefore probable that the Regulation reiterated a standard of useful life on which more recent legislation has turned.

1960: *The Supreme Court*. The meaning of useful life depreciation was discussed at great length by the Supreme Court in *Massey Motors Inc. v. United States*, 364 U.S. 92 (1960). In that case, a retail car dealer held cars for demonstration and leasing purposes, depreciating them over periods of several years. These annual depreciation deductions were challenged by the Commissioner, however, because of the taxpayer's failure to deduct the estimated salvage value at the end of the automobile's period of use by the taxpayer. The taxpayer had calculated salvage, at the end of the automobiles' actual physical lives, adopting an estimation of salvage value equal to scrap value. In upholding the Commissioner, the Court held that the salvage value must be calculated on the basis of the period of use by the taxpayer, and not on an abstract estimate of its physical or economic life.

The Court said: "4"

"We have concluded that the reasonable allowance for depreciation of the property in question used in the taxpayer's business is to be calculated over the estimated useful life of the asset while actually employed by the taxpayer, applying a depreciation base of the cost of the property to the taxpayer less its resale value at the estimated time of disposal. . . .

"Useful life is measured by use in a taxpayer's business, not by the full abstract economic life of the asset in any business."

1962: *Treasury*. In Revenue Procedure 62-21, the Treasury announced a new series of guideline lives to replace Bulletin F. In announcing the guidelines, the Treasury stressed that the new testing procedures did not represent an abandonment of the useful life concept.⁴⁵

"At present, depreciation is based on the useful life of property in the taxpayer's own trade or business.

"The depreciation reform retains this approach. Every taxpayer should continue to base his depreciable lives on his own best estimate of the period of their use in his trade or business. . . .

"The guidelines . . . will be presumed to be acceptable unless subsequent events show that they are not appropriate for a particular taxpayer's circumstances. Of course, to no extent do the new guidelines foreclose a taxpayer from using even shorter depreciable lives if his particular retirement and replacement practices are more progressive than those of the industry of which he is a part. Thus, under the depreciation reform, depreciation continues to be based on the concept of useful life of property to the taxpayer. However, wider latitude is provided for the taxpayer in making his own best estimate of useful life, and objective standards are provided wherever possible for determining when the taxpayer's estimates should not be disturbed. . . .

"[T]he Reserve Ratio Table will provide objective guides for establishing that a taxpayer is entitled to use even shorter lives than he has used in the past."

C. *Special Investment Incentives*.—In several sections of the Code, two of them enacted after the promulgation of the 1956 regulation, the availability of substantial tax benefits turns on the meaning of the term "useful life." In these provisions, the legislative history makes clear that Congress was not only aware that the term useful life meant "useful life in the taxpayer's business", but that it used the term in just this precise sense to limit the amount or availability of a particular investment incentive. The concept of "useful life" figured prominently in each of the three major investment

incentives adopted with respect to depreciable property in the last two decades: the accelerated depreciation methods adopted in 1955; the 20% additional first year depreciation adopted in 1958; and the investment credit adopted in 1962.

The accelerated depreciation methods introduced in 1954 apply only to assets with "useful lives" of three or more years.⁴⁶ Moreover, the amount of acceleration was carefully defined and limited in the statute by conditions that turned on the accurate estimation of useful life. Section 167(b) authorized the use of accelerated methods, which would be presumed to produce a "reasonable allowance" under section 167(a). However, both the House and Senate Reports expressly provided that the accelerated methods authorized under 167(b) would be deemed to produce reasonable allowances only "so long as the useful life used in determining such allowance is accurate."⁴⁷

A second tax incentive to increase investment in depreciable property was adopted in the Small Business Tax Revenue Act of 1958. The additional 20 percent first year depreciation provided in section 179 applies only to assets with "useful lives" of six years or more.⁴⁸ The House Report referred to "useful lives of assets in the hands of the taxpayer."⁴⁹

In 1962, Congress enacted a third major investment incentive, the investment credit. While it was in effect, the investment credit could not be used for property with a "useful life" of less than four years, could only partially be used for property with a "useful life" of from four to eight years, and was only fully available for property with a "useful life" of more than eight years.⁵⁰ The Committee Reports deal with the definition of useful life at some length.⁵¹

The percentage of investment which the taxpayer may take into account varies to some degree with the expected useful life of the property in his business. . . .

"The estimated useful life is to be determined with reference to the useful life in the hands of the taxpayer. Thus, if the taxpayer acquires used [property qualifying for the investment credit] without a remaining useful life of 3 years in his hands such property will not qualify regardless of the original estimated useful life to the previous owner. . . . The estimate of the useful life is to be based on the facts and circumstances known on the date the asset is placed in service. . . ."

In all of these important investment incentives adopted, defined and carefully limited by Congress—there is no hint that the "useful life" standard which in each case explicitly appears in the statute and on which qualification for these tax benefits depend, is to be made a matter of taxpayer election. On the contrary, it would be inconsistent with the purposes of these provisions to assume that the subsidies which they confer were conditioned on a definition of useful life that could be varied by the Treasury at will. But this is exactly what the ADR system purports to do.

FOOTNOTES FOR APPENDIX A

¹ 36 Stat. 112, § 38.

² *Id.* (ital. here, and in all quoted language hereafter, added).

³ Reg. 31, Art. 4.

⁴ Act of October 3, 1913, 38 Stat. 167, § II B.

⁵ 38 Stat. 172, § II(G)(b).

⁶ Reg. Art. 33, Jan. 5, 1944, Art. 129.

⁷ *Id.*, Art. 130.

⁸ 39 Stat. 759 (individuals), 768 (corporations).

⁹ Reg. No. 33 (revised) Jan. 2, 1918, Art. 162.

¹⁰ *Id.*

¹¹ *Id.*, Art. 170.

¹² Act of 1918, § 214(a)(8), 40 Stat. 1067.

¹³ Treas. Reg. 45, Art. 161, 165, April 17, 1919.

¹⁴ Reg. § 1.167(a)-1(a).

¹⁵ See, e.g., *United States v. Ludey*, 274 U.S. 295, 300-01 (1927) (Brandeis, J.); *Detroit*

Edison Co. v. Commissioner, 319 U.S. 98, 101-02 (1943).

¹⁶ See e.g., *Cammarano v. United States*, 358 U.S. 498 (1959).

¹⁷ See, Griswold, *A Summary of the Regulations Problem*, 54 *Harv. L. Rev.* 398 (1941) and articles cited at 398, n. 1.

^{17a} See Barlow, *Depreciation in Tax Revision Compendium*, House Ways and Means Comm., 86th Cong., 1st Sess. 827, 831 (1959).

¹⁸ Report of the Ways and Means Subcommittee, 73rd Cong., 2nd Sess., 9 (1933).

¹⁹ See Letter to Robert L. Doughton, Chrmn, House Ways and Means Comm., from H. Morganthau, Acting Secretary of the Treasury, reprinted in H.R. Rep. No. 704, 73d Cong., 2nd Sess., 8-9 (1933).

²⁰ See H.R. Rep. No. 704, *supra*, at 8.

²¹ S. Rep. No. 558, 73rd Congress, 2nd Sess., 11 (1933).

²² See 78 Cong. Rec. 2606 (1933).

²³ H.R. Rep. No. 704, *supra*, at 8-9.

²⁴ Reports, *supra*, at 5.

²⁵ Report of the Subcommittee, *supra*, at 8-9.

²⁶ H.R. Rep. No. 704, *supra*, at 9.

²⁷ Treas. Reg. 77, Art. 205.

²⁸ See 632 CCH ¶ 1777.

²⁹ See Daniel S. W. Kelley, T.C. Memo. 1957-7; Estate of Mary Z. Bryan, T.C. Memo. 1963-182.

³⁰ H.R. Rep. No. 1337, 83rd Cong., 2nd Sess., 22 (1954).

³¹ *Id.* at A48.

³² 26 U.S.C. section 167(d).

³³ Reg. § 1.167(d)-1.

³⁴ H.R. Rep. No. 1337, 83rd Cong., 2nd Sess., 24-25, A52-A53 (1954).

³⁵ S. Rep. No. 1622, 83rd Cong., 2nd Sess., 28 (1954).

³⁶ *Id.*

³⁷ See Statement by Robert H. Chaffee on behalf of the Small Retailers Manufacturers Council of Pittsburgh, Hearings before the Senate Finance Committee, 83rd Cong., 2nd Sess., on H.R. 8300, Part 2, 2196 (1954) (hereinafter referred to as Senate Hearings); Statement of Fred Maytag for the National Association of Manufacturers, *id.*, at 1637, and Exhibit C, *id.*, at 1646.

³⁸ See, e.g., Statement of the Chamber of Commerce of the United States, Senate Hearings, at 1950; Statement of Ellsworth C. Alvord, *id.*, at 1991.

³⁹ See, Statement of Fred Maytag, for the National Association of Manufacturers, Senate Hearings, at 1935:

[The 10-percent rule would] become an outright invitation to revenue agents to measure the useful life taken by taxpayers against the arbitrary standard of Bulletin F. The rule must be applied against a reasonable estimate by the Secretary taken in each case.

⁴⁰ Rev. Ruls. 90, 91, 1953-1 *Cum. Bull.* 43, 44.

⁴¹ S. Rep. No. 1622, 83rd Cong., 2nd Sess., 28 (1954).

⁴² Reg. 1.167(a)-1(b).

⁴³ 364 U.S. at 128.

⁴⁴ 364 U.S. at 93, 94.

⁴⁵ Rev. Proc. 62-21, 1962-2 *Cum. Bull.* 463, 464 (Appendix II).

⁴⁶ Section 167(c).

⁴⁷ H.R. Rep. No. 1337, 83rd Cong., 2d Sess., A48 (1954); S. Rep. No. 1622, 83rd Cong., 2d Sess., 201 (1954).

⁴⁸ Section 179(c)(1)(D).

⁴⁹ H.R. Rep. No. 2198, 85th Cong., 2d Sess. at 2198.

⁵⁰ Section 46(c)(1), (2).

⁵¹ S. Rep. No. 1881, 87th Cong., 2nd Sess. 14, 144 (1962).

APPENDIX B.—OTHER UNAUTHORIZED CHANGES IN DEPRECIATION ACCOUNTING INTRODUCED BY THE ADR PROPOSAL

The ADR system would disregard salvage values in the calculation of annual allow-

ances; it would introduce a new 10% tolerance rule for reviewing salvage estimates; it would introduce a new half-year convention; it would permit some additions to capital to be expensed as mere "repairs" while allowing others to be capitalized over arbitrarily long periods. None of these changes can be justified on either legal or practical grounds.

1. *The Treatment of Salvage:* Although the general rule of depreciation accounting requires that the annual rate of depreciation be applied to the difference between the original cost of an asset and its estimated salvage value, the proposed regulation would ignore salvage value in calculating annual depreciation deductions. Deviations from the general rule have been justified in the past only where contemplated in special statutory provisions, as for example, where depreciation is calculated according to the double declining balance method under section 167(b)(2), or where 20% extra first-year depreciation is elected under section 179. In both of these special cases, depreciation is computed against the asset's original cost without taking salvage into consideration. In explaining the double declining balance method, the 1954 House Report introducing the provision stated that depreciation be calculated against a basis of original cost less a reasonable estimate for salvage, and explicitly recognized that the double declining balance method was a special exception to this rule. The reason for the exception, the Report stated, was that the double declining balance method would, because of its mathematical properties, produce a relatively large residual value to represent salvage.¹ Similarly, the 20% additional first year depreciation enacted in section 179 is available only for the first year of an asset's use and is calculated against the asset's original cost in order to make the useful life and salvage value estimates required under section 167 unnecessary. The present regulations reflect the general rule² and the Supreme Court has said that accurate salvage estimates, like useful life estimates, are essential to the accurate estimation of depreciation.³

The elimination of salvage value from the calculation of annual allowances would introduce the same kinds of distortions in income tax accounting, and would produce the same arbitrary distribution of tax benefits among taxpayers as the substitution of arbitrary lives for useful lives. The effect, of course, is to increase annual allowances in the early years of an asset's use—relatively more for taxpayers holding assets with high salvage values, less for taxpayers holding assets with lower salvage values.

The Treasury itself, in its July 1970 Report, emphasized the inequities and distortions which would result from disregarding salvage from the calculation of annual deductions:⁴

"Inherently, this proposal provides greater tax benefits the shorter the asset life and the more accelerated the tax depreciation formula, and in common with all proposals to provide tax incentives via tax depreciation policy, it provides greater benefits to high-tax-rate asset owners (i.e., larger businesses) than to low-tax-rate owners. [T]he margin of benefit is . . . much greater for short lived assets while being restricted to taxpayers who, in fact, have salvage value to ignore."

The elimination of salvage from the calculation of annual deductions is completely without legal basis. Since, even under the ADR system, the taxpayer must still make an estimation of an asset's actual salvage value at the end of its useful life for other purposes,⁵ the change cannot be justified on grounds of administrative convenience. There is simply no administrative advantage

to be gained from this change in procedure. Its only effect is to increase the initial depreciation deductions for individuals whose assets have a high salvage value.

Where the ADR system does require that an estimation of salvage be made, it provides for a special rule of thumb under which the Treasury would not disturb salvage estimates of the taxpayer unless the taxpayer's estimates differed from the Treasury's determination by more than 10%. The rule is incompatible with section 167(f), which already specifies that 10% of the salvage value may be disregarded, since it would effectively increase the statutorily defined percentage to 20%. Moreover, the use of a 10% rule of thumb, similar to the one now proposed in the regulation, but with respect to useful life estimates, was considered and explicitly rejected by Congress in 1954, when it enacted several important revisions to section 167.⁶

2. *First Year Convention:* Under present depreciation rules, a taxpayer may either calculate depreciation on assets acquired during a year either from the month of their installation (prorating the annual deduction over a fraction of the year in service) or elect a first year convention, whereby all assets acquired during the year may be treated as though they were installed at mid year. In many cases, this convention will approximate the depreciation for all assets at considerable savings in convenience as, for example, in a firm which replaces assets continuously throughout the year. Under the ADR system, a new convention is introduced, under which all assets acquired during the first half year are treated as though they were acquired on the first day of the year, and all assets acquired during the second half year are treated as having been acquired at mid year. Unlike the existing convention, this treatment could never approximate an average calculation of the dates of installation for all assets, and will always tend to increase annual depreciation deductions. Moreover, it is difficult to justify in terms of greater administrative convenience, since it is identical in this respect to the existing convention. One is as easy to apply as the other. The Treasury does not purport to eliminate the existing first year convention, but it is obvious that for most taxpayers the new convention will provide much greater tax benefits, and correspondingly greater revenue losses, than the existing convention. The new convention is therefore unjustified because it would always produce revenue losses, while providing absolutely no administrative gains.

3. *Rehabilitation and Improvement Expenditures:* Expenditures made for the repair and rehabilitation which under current law would have to be added to the value of the depreciable property and depreciated along with it, would, under the proposed regulation, be deductible as business expenses in the year of the rehabilitation in amounts up to a full year's depreciation so long as they did not substantially alter the number, size or use of the taxpayers assets and remained below specified ceilings. This proposal directly contravenes the explicit command of section 263, which provides that capital expenditures, for any and all "permanent improvements or betterments" which increase an asset's value, shall not be deductible as business expenses, except as explicitly provided in the Code.

A capital outlay on new machinery is prohibited by section 263 regardless of whether the new machines substantially alter the size or nature of the taxpayer's business.⁷ On its face the statute proscribes deductions for improvements which add permanent value to property, and will thus prolong the capacity of that property to produce income

Footnotes at end of article.

over a number of annual income periods. There is no basis in section 263 for distinguishing between permanent capital improvements which substantially alter or increase a taxpayer's plant and permanent capital improvements which do not, yet this is the distinction the Treasury has drawn in proposing to permit taxpayers to deduct a so-called "rehabilitation allowance" for improvements to capital.

4. *The Postponement of Depreciation Deductions:* The carefully maintained distinction between capital expenditures and current expenses would also be blurred by the election of arbitrarily long cost recovery periods under the ADR system. By making the selection of capital cost recovery periods entirely a matter of a taxpayer's election, taxpayers would not only be able to convert capital expenditures into deductible expenses in some circumstances, they would also be able to capitalize current items that should be expensed. The selection of overly long periods of capital cost recovery would enable taxpayers to postpone depreciation deductions to later income periods, in spite of the Code's clear mandate that they should be taken only as depreciation actually occurs.

Several provisions limiting the extent to which items deductible in the current year may be calculated to later income periods would be undermined if the amount of an annual deduction could be determined at the discretion of the taxpayer. Section 1016, for example, provides that the depreciable basis of an asset must be diminished each year by any depreciation "allowed or allowable" under section 167. The effect of 1016 is to diminish the basis of property with the passage of time whether depreciation deductions are claimed in every income period or not. The purpose of this provision—to eliminate the possibility that a taxpayer might allocate his depreciation deductions over time at his own discretion—is clearly at odds with the import of the ADR system, which makes the timing of depreciation allowances a matter of the taxpayer's election.

Similarly, the purpose of section 172, which permits operating losses to be carried forward to a limited number of subsequent taxable years would be undermined by the election of abnormally long ADR recovery periods. The election of a longer period, and the consequent reduction of annual depreciation allowances, would permit a taxpayer to "save" his operating losses and to carry unused deductions forward beyond the statutory limits.

Both sections, 1016 and 172, are based on the assumption that the period of capital cost recovery is fixed by an objective standard—i.e., a realistic estimate of the useful life of an asset in the taxpayer's business. The transformation of depreciation allowances into elective deductions renders the limitations reflected in section 1016 and 172 substantially inoperative.

FOOTNOTES FOR APPENDIX B

¹ H.R. Rep. No. 1337, 834d Con., 2nd Sess., A48 (1954).

² See Regulations § 1.179-1(d), § 1.167(a)-1(a), (c), and § 1.67(f)-1.

³ See, e.g. *Massey Motors, Inc. v. United States*, 364 U.S. 92, 93, 104 (1960).

⁴ Treasury Department, *Tax Depreciation Policy Options*, in Cong. Rec., July 13, 1970, at E6967.

⁵ The ADR system permits the taxpayer to ignore salvage in computing annual allowances, but requires him to compute it to insure that no asset or class of assets is depreciated below salvage value. There is no theoretical, legal, or practical basis for this differential treatment.

⁶ See the discussion of the rejection of the "10% leeway rule" in 1954 in Appendix A.

⁷ See Regulations § 1.263(a)-2(a).

A GLIMMER OF HOPE FOR TECHNOLOGY AND THE NATION

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. EDWARDS of California. Mr. Speaker, I would like to share with my colleagues an article by Mr. Pete Cane of the San Jose Mercury reporting a meeting between Deputy Secretary of Defense David Packard and electronics industrialists in the San Francisco Bay area. Mr. Cane has, I believe, correctly discerned the mood and desires of today's scientists and engineers. For their economic security and for the well-being of the Nation, priorities must be realigned. We must work to meet the real problems that face this country.

I include the article as follows:

A GLIMMER OF HOPE FOR TECHNOLOGY

(By Pete Cane)

"We need you."

With those words, Deputy Secretary of Defense David Packard wound up his pitch to leading electronics industrialists in San Francisco this week.

Basically, Packard outlined an intensive research and development program forthcoming in future Pentagon budgets and urged that heads not be turned by only environment and health.

Those two fields have been the subject of "conversion" talk what with the war purportedly winding down and defense budgets hitting the skids to a tune of a mere \$76 billion.

Then there's the reduced National Aeronautics and Space Administration (NASA) budget, the scuttling of the supersonic transport (SST), the recession and a couple of years of extremely tight science allocation from the federal government.

Packard's words could have been echoed back from his distinguished electronics and aerospace management audience of about 600 at the Hilton Hotel.

They need him—in some cases to stay in business.

A resurgence in research and development is an excellent thing. It has received short shrift during the Vietnam years. Hopefully it will take place.

Meanwhile, thousands upon thousands of engineers who heard the same pitch back in the '50s are out of work, either cutting lawns, collecting welfare or going crazy.

They also were told "We need you" by the government. They believed it and became career engineers while in school.

Then something funny happened. The government didn't need them anymore.

It wasn't the same government, at least in terms of administrations. The administration that said "We need you" a couple of decades ago isn't in office now.

But that is little comfort to somebody going hungry.

The sad thing is that the country desperately needs those talented men, yet it cannot seem to make up its mind what to do with them.

Clearly, the future defense budgets Packard outlined for the '70s will call for less manpower than in the past. He placed careful emphasis on reductions in force within the uniformed and civilian parts of the military-industrial complex.

How much faith can high technology workers put in the "We need you" pitch after being burned?

It's a valid question. Many of those laid off during the past two years have vowed to never again return to the hothouse climate of military work.

Some kinky things have happened to their political leanings often enough, too. Staunch Republicans talk about the party as if it were a band of pariahs now, out to do them in.

A phenomenon called "radical science" is popping up too. Brushing aside the rhetoric, radical science (or scientists) are calling for reorientation of national priorities toward domestic ills in an orderly, coherent fashion.

The rhetoric gets pretty hot, however. Scientific journals and meetings have been filled with it, obscuring in most instances what the new partisans are getting at.

They are declaring flatly, "You need us," and setting up their own rules for the game.

Thus, while Packard was correct in declaring that the nation needs its scientists, engineers and high technology workers, he perhaps fell understandably short of the total need.

The areas of environment, domestic ills, crime control, transportation and orderly growth must also be included along with military research and development.

Some scientists are making sure they will. The disruption in Chicago of the American Association for the Advancement of Science (AAAS) is an example.

Radicals created an uproar there which hasn't simmered down yet. They mocked Dr. Edward Teller, paraded around disrupting meetings on "law and order," and held their own counter-sessions in other parts of the hall.

The movement has been growing for about two years and seems bound to increase in scope as time goes on.

Its attack on the AAAS is directed at what it believes to be a big money monopoly on science—the dominance of large corporations with big money to throw around—or withheld.

Both individual scientists and engineers and some institutions appear determined not to fall into any more traps which offer the mirage of security. True security isn't up to the Packards of the current or future administrations.

It belongs properly in the hands of the people.

And if the people don't awaken to the fact that they are to a great extent dependent upon technology and all that technologists have to offer, this country will suffer not only geopolitically but in terms of personal hardship.

The hardship has fallen first upon those whom Packard declared the nation needs.

It will next fall upon the public, unless it specifies directly what the nation's priorities are to be for decades to come.

J. EDGAR HOOVER—A TRIBUTE BY THE LOUISIANA SOCIETY OF THE SONS OF AMERICAN REVOLUTION

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. RARICK. Mr. Speaker, this past Monday marked the 47th anniversary of the appointment of J. Edgar Hoover as Director of the Federal Bureau of Investigation.

Sporadic attempts have been made from time to time over the years to have Mr. Hoover removed as FBI Director.

On each occasion, patriotic Americans, appreciative of Mr. Hoover's dedicated and unselfish service to American ideals, step forward and urge that he continue serving as FBI Director.

I am proud to insert at this point in my remarks the text of a resolution in support of J. Edgar Hoover adopted by a group of my constituents as members of the General Philemon Thomas Chapter of Baton Rouge, The Louisiana Society of the Sons of the American Revolution.

I include the resolution as follows:

GENERAL PHILEMON THOMAS CHAPTER OF
BATON ROUGE

THE LOUISIANA SOCIETY OF THE SONS OF THE
AMERICAN REVOLUTION

Resolution

Whereas, recent attacks upon J. Edgar Hoover and the Federal Bureau of Investigation by various anarchists, revolutionaries, self-seeking political opportunists and misguided individuals have appalled, disgusted and substantially irritated us; and

Whereas, said attacks appear to be completely unjustified by any evidence whatsoever; and

Whereas, we consider our nation fortunate to have a leader like J. Edgar Hoover and a responsible agency like the Federal Bureau of Investigation to investigate and bring to justice the foreign, the subversive and the criminal enemies of the United States;

Be it hereby resolved that we, the General Philemon Thomas Chapter of the Louisiana Society of the Sons of the American Revolution, meeting this 4th day of May, 1971, at Baton Rouge, Louisiana, do hereby express our complete confidence, encouragement and gratitude to J. Edgar Hoover and the Federal Bureau of Investigation and do hereby express our unequivocal support for Director Hoover's continued leadership and a vigorous policy of law enforcement, counter-espionage and counter-subversion.

Be it further hereby resolved that copies of this resolution be sent to Mr. Hoover, to the entire Louisiana congressional delegation and to the National Headquarters of our Order.

JOHN M. ELLIS, JR.,
John M. Ellis, Jr., President.
ST. JOHN P. CHILTON,
St. John P. Chilton, Secretary.

THE BLACK MAN IN THE NAVY

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. DELLUMS. Mr. Speaker, an important series of articles appeared recently in the official newspaper for Naval Station, Treasure Island in San Francisco. I enter them as a whole in the RECORD because of their value in illuminating aspects of the black man's history in the U.S. Navy.

[From The Masthead, Feb. 10, 1971]

PART I: THE BLACK MAN IN THE NAVY—
EARLY BATTLES PROVE BLACK MAN'S
COURAGE

(NOTE.—The 35,000 black Americans now serving with their non-black shipmates in the U.S. Navy work with highly technical equipment on board air-conditioned ships. Their way, however, was paved with the blood and sweat of early black sailors whose

history forms one of the most exciting, but overlooked, chapters in Naval History.)

Stories of these seamen doing their jobs during times of war and peace have gone untold, and their participation in the Navy has become a forgotten part of their heritage.

In the Navy's first sea fights, those of the Revolutionary War, 1500 blacks served their country loading guns, working sails, manning boats, and piloting coastal vessels. If a sailor was a slave, he was emancipated after three years of military service. During the War of 1812, the Navy's first test in defending the newly-formed United States, one out of every six sailors was black.

Black Americans served proudly with Commodore Oliver Hazard Perry when he won a key battle against the British on Lake Erie. After the battle, Perry said of John Johnson, one of 15 black sailors on board, "His name ought to be registered in the book of fame and remembered with reverence as long as bravery is a virtue."

During the battle, Johnson was struck in the hip by a 24-pound cannon ball and was nearly cut in half. As he lay dying on the deck, Johnson said over and over, "Fire away my boys, no haul the color (the American flag) down."

During the Mexican-American War (1846-1848) some 1,000 black Americans served in America's young Navy.

Some 30,000 blacks fought in the Union Navy during the Civil War, and many others on Confederate ships. Some were slaves, and some were freedmen. In the Union Navy one sailor in four was black.

Many slaves attempted to flee the South during the early days of the war. While thousands succeeded, few escapes were more daring than that of Robert Smalls, a coastal pilot on the new Confederate steamer CSS PLANTER.

At 4 a.m. on May 13, 1862, when the officers were ashore, Smalls and an escape party of 15 slaves got the PLANTER underway. The 313-ton ship pulled slowly from the wharf near the Confederate headquarters in Charleston Harbor. With the Rebel flag flying, the ship was steered toward the open sea.

Getting out of the harbor was no easy job because several Rebel forts guarded the harbor entrance. As he passed each outpost, Smalls gave the correct sign with the ship's whistle. Everything was made to appear as though the PLANTER was on a routine mission.

Finally, the ship came abreast of the huge guns of Fort Sumter, and since everything appeared normal she was allowed to pass. As soon as he was out of range of the fort's cannon, Smalls hoisted a white flag and sailed the ship into the hands of the Union fleet blockading the harbor.

For their brave acts, Smalls and his crew were awarded half the cash value of the ship and its cargo by President Abraham Lincoln. In addition, Smalls was named Captain of the vessel and served as commanding officer until the PLANTER was decommissioned in 1866.

Robert Smalls, a native of South Carolina, was later elected to both the South Carolina and U.S. House of Representatives.

During the War Between the States, five blacks were awarded the Medal of Honor. The first so honored was Robert Blake, an escaped slave. Blake's ship, the USS MARBLEHEAD, was lying at anchor in the Stone River of Legareville, N.C.

In the early morning hours of Christmas Day, 1863, the Confederates attacked the ship. Blake, a steward, could have hidden below decks; instead, he substituted for an injured powderboy and routinely served the rifle gun during the 14-hour battle. He was praised for his "cool and brave" conduct by his commanding officer.

Three black Americans were cited for out-

standing bravery during a key naval battle at Mobile Bay, Ala., less than one year later. John Lawson of Pennsylvania was a crew member on Rear Admiral Daniel Farragut's flagship, the USS HARTFORD.

Lawson's battle station was below decks where he supplied powder to the gun crews above him. A shell struck his position and Lawson was smashed against the side of the ship. Although badly wounded in the leg, Lawson ignored his injury and kept passing powder to the guns.

In the same battle, on board the USS BROOKLYN, two other sailors distinguished themselves in combat and were also awarded the Medal of Honor.

William Brown of Maryland and James Miffin of Virginia, served the powder line of their ship (which took two direct hits during the four-hour battle), stood their ground and kept the guns supplied. Fast, accurate Union gunfire, made possible in part by these men, helping the Union Navy defeat the Confederates at Mobile Bay.

The fifth Medal of Honor of the War Between the States was earned by Joachim Pease of New York, a gun loader on the USS KEARSARGE. The KEARSARGE had chased the powerful Confederate raider CSS ALABAMA into the French harbor of Cherbourg.

When the ALABAMA tried to make a run for the open sea, the KEARSARGE challenged her and a bitter 60-minute battle followed. While the gun crew on the ALABAMA fired fast but wild, the KEARSARGE made each shot count.

The ALABAMA was sunk in 40 fathoms of water, and, according to his commanding officer, Pease "fully sustained his reputation as one of the best men on the ship."

[From the Masthead, Feb. 24, 1971]

PART II: THE BLACK MAN IN THE NAVY—
SEGREGATION APPEARS, ERASED BY WORLD WAR
II

In the 40 years of peace that followed the War Between the States, black Americans continued to serve in the United States Navy. Some distinguished themselves as heroes, but most just did their jobs, and did them well.

Joseph B. Noll, a native of Nova Scotia, was one of the heroes. He was a crew member on the USS POWHATAN when that ship was anchored off the coast of Virginia on Dec. 26, 1872.

About 11 p.m., Noll heard a shipmate fall overboard. Without hesitation he jumped into the 25-degree water and pulled boat-swain's mate J. C. Walton back on board. Walton was exhausted, but safe.

For his heroic act, Noll became the sixth black sailor to win the Medal of Honor.

When the Spanish-American War broke out in 1898, the Navy continued its policy of enlisting black Americans into the ranks on a fully-integrated basis.

Black enlisted men and petty officers served in the engineering departments and at the guns of ships that defeated the Spanish at Manila and Santiago in the Philippines.

It was the Spanish-American War that established the United States as a power on the seas. Two black American sailors were cited for extraordinary courage during this War and won Medals of Honor.

On Feb. 11, 1898, just a few days after war was declared, Daniel Atkins, a ship's cook from Virginia, was on board the USS CUSHING en route to Cuba. Huge waves swept the deck. A lifeline broke, and a young officer was swept overboard.

After a rescue attempt by boat failed, one crew member tried to swim to him, but was exhausted by the time he reached the officer's lifeless body.

Atkins then tied a line around his waist and plunged into the water. He swam to the two men and tied ropes around both. One at a time, all three were pulled back aboard by their shipmates, but the officer was dead.

Atkins was praised for his gallant conduct and later awarded the Medal of Honor.

Robert Penn, also a native of Virginia, was on duty near the boiler room of the USS IOWA a few months later. Suddenly the ship was ripped by an explosion. Penn, a fireman second class, rushed to the scene and found boiling water pouring from a ruptured boiler. The hot coals had to be removed from the steam boiler or else there might be another explosion.

Penn placed a board across two buckets in order to keep his feet out of the scalding water covering the deck. Then he carefully began the process of transferring the fire to a safe place.

For this act, performed at the risk of serious injury, Penn earned the Medal of Honor.

During World War I the Navy first began showing partiality in its treatment and use of black personnel.

Some 10,000 black Americans volunteered for the Naval service during that time, but for the most part, they were assigned non-combatant roles.

Fully-integrated living quarters were maintained aboard Navy ships until 1920, at which time segregation became apparent. In addition, black Americans were only allowed to enlist as stewards or to fill jobs on supply-type vessels.

Such conditions did not prevent individuals from serving valiantly during World War II. Dorie Miller, for example, was a steward aboard the battleship USS West Virginia docked at Pearl Harbor on Dec. 7, 1941.

During the attack by Japanese aircraft, Miller helped his wounded captain to cover. He then manned a machine gun, which he never had been trained to operate, and destroyed at least two attacking airplanes. He was later awarded the Navy Cross by Fleet Admiral Chester W. Nimitz.

In 1943, Miller was one of the many men killed when the aircraft carrier USS Liscombe Bay was torpedoed and sunk by a Japanese submarine.

Leonard Roy Harmon was also a steward during World War II. During the battle for the Solomon Islands in the western Pacific, Harmon rendered valuable assistance in evacuating the wounded on board the USS San Francisco and caring for them at a dressing station.

He was killed by enemy gunfire while trying to protect a shipmate. A destroyer escort named USS Harmon was launched in 1943.

Beginning in 1942, the Navy demonstrated an enlightened view toward desegregation and equal opportunity for all of its personnel.

Over 30 directives were issued between 1942 and 1947 in order to make equal opportunity a reality in the fleet.

One of the first steps taken was to tackle the long-neglected area of procuring officers from the black community. During the period between the Civil War and World War II, no black Americans were commissioned as officers in the Navy.

In 1943 however, the Navy announced its intention of training those who met officer candidate school qualifications. Between 1943-54, a total of 60 black officers were sworn into the Navy from this program.

In 1949, Wesley Brown became the first black man to graduate from the U.S. Naval Academy at Annapolis, Md. Several other black Americans had been appointed to the Academy before Brown, the first in 1872, but none had ever completed the required course of study.

By the time of the Korean conflict, the black officer and enlisted man were once again an integral part of the Navy's operating forces, and a fleet-wide competitive examination system was instituted to insure promotions based on ability instead of a man's racial heritage.

Among the officers who served with distinction in the Korean War was Ensign Jesse L. Brown, a native of Mississippi.

Ensign Brown was the first black American to win the wings of a Naval aviator. For a daring series of attacks on enemy ground troops and supply lines, costing him his life on Dec. 5, 1950, Brown was posthumously awarded the Distinguished Flying Cross and the Air Medal.

In a further effort to recruit black officers, the Navy established a Reserve Officer Training Corps unit at a predominantly black college, Prairie View A&M in Texas in April 1968. The first class of officer candidates graduated in May 1970.

[From The Masthead, Mar. 10, 1971]

PART 3: THE BLACK MAN IN THE NAVY—EQUAL OPPORTUNITY: A REALITY TODAY

Not long ago Captain Samuel Lee Gravely Jr., USN, assumed command of the guided missile frigate USS Jouett (DLG29). More recently, Commander George I. Thompson, USN, completed a tour as commanding officer of USS L. R. Craig (DD883) to join Attack Carrier Strike Force, Seventh Fleet. Captain Paul S. Green, MC, USNR, is serving as Chief Radiologist and Executive Officer of the Naval Hospital, Lemoore, Calif.

What these three naval officers have in common is their race—they are black Americans. Their story is told here to point up the steadily improving role and opportunity for the black Americans in the sea service.

Today the Navy has a concerted program to increase the number of black Americans both in the Regular Navy and in the Naval Reserve. At this writing there are 539 black officers in the Navy, ranging from warrant officer to captain.

However, Secretary of the Navy John Chafee said in a directive to all naval personnel that "our accomplishments leave much to be desired."

He called for immediate action to solve racial tension and greatly increase the percentage of black Americans in the officer corps. Adm. E. R. Zumwalt, Jr., Chief of Naval Operations (CNO), followed this up with a directive outlining specific actions to be taken by naval personnel to insure equal opportunity.

Here are the stories of three Negro officers in the Navy, which exemplify the opportunity that is open to young men and women who have what it takes for a naval career.

Commander George I. Thompson would rather have people think of him as a professional sailor proud of commanding a U.S. Navy warship than as a black man in the hierarchy of an officer corps.

Cdr. Thompson himself was in the Bureau of Personnel when the Navy began a concerted effort on a minority officer recruitment program in 1962.

Things have changed in some ways. When Cdr. Thompson assumed command of CRAIG, one difference was demonstrated.

"Before he arrived," noted Lieutenant Commander C. M. Walter, CRAIG's executive officer, "I was probably the only man on the ship who knew he was a Negro—and I knew only because I was told by a friend of his who knew he was coming to CRAIG."

As Cdr. Thompson pointed out, that in itself marked a major advancement. "At times in the past, pains were taken to inform a ship that it was to receive a black officer. Now, however, I was able to come to CRAIG not only as an officer, but as the commanding officer, without any special notice."

Cdr. Thompson, a native of Los Angeles, attended UCLA and graduated in 1942. He attended Officer Candidate School in 1953 and was commissioned an ensign in May of that year.

"I went to my first ship, the carrier ORISKANY (CVA 34), with no plans of making the Navy a career," he said. "I spent

three happy and productive years on ORISKANY, though, and my experience on her prompted me to stay in.

"I was able to fill a position of some responsibility which I could feel, and the feeling was good. The opportunity for additional responsibility which the Navy presented was hard to pass up."

What he calls "a couple of lucky breaks" and a lot of hard work gave him that opportunity.

"I was in the communications department and assigned to the radio watch bill," he said. "I volunteered to stand additional watches on the bridge in my spare time because I wanted to become an Officer of the Deck."

Then, when ORISKANY lost several junior officers at the same time, Cdr. Thompson was moved to regular bridge watches, becoming a qualified underway Officer of the Deck while he was still an ensign.

After the communications officer was injured, Cdr. Thompson took that job over as well for four months.

"The same types of opportunities are available right now," he said. "Anyone who is willing to work can make his way. With the cutbacks we are now undergoing, I can qualify anyone who has enough intelligence and desire to do the work."

Cdr. Thompson feels that he has progressed through the Navy with few adverse effects because of his color.

"I don't feel that racial prejudice has had any noticeable influence on my assignments or jobs," he said. "Of course, there were people I didn't get along with, but I don't think that was necessarily race-oriented."

"All relationships in the Navy grow out of the professional relationships between men," he explained. "If you work with a man and you respect him for his ability, then that is the paramount consideration. It will influence your entire relationship."

"If you don't respect him professionally, then it will be hard to have a personal, friendly relationship outside work."

"The professional relationship is the most important," he added. "If a personal friendship follows, then that's fine."

After his first tour of duty, Cdr. Thompson's own career took him to Puerto Rico for duty with the Caribbean Sea Frontier staff. During his tour he augmented into the Regular Navy.

He later served on board the destroyer USS COMPTON (DD 705) and was Executive Officer of USS OUTPOST (AGR 10). He attended the Naval War College, and received two advanced degrees—an MA in international affairs and an MS in personnel management—from George Washington University.

He took command of the escort ship USS FINCH (DER 238) in 1964, then went to the Naval Academy for a tour as a naval science instructor, head of the Tactics Committee, and a battalion advisor.

He completed his duties as Commanding Officer of CRAIG in July 1969, reporting to the Attack Carrier Strike Force of the Seventh Fleet, and is now serving in the Vietnam theater.

Captain Samuel Lee Gravely, Jr., USN, is now the senior black unrestricted line officer in the Navy, one of three black captains.

He was born in Richmond, Va., attended Armstrong High School there, and then attended Virginia Union University for three years. (He was later graduated with a BA in history.)

Enlisting in the Naval Reserve on 15 Sept. 1942, he attended the service school at Hampton (Va.) Institute and then was assigned to the Section Base at San Diego. From November 1943 to June 1944 he was a member of the V-12 school at Asbury Park, N.J.

Appointed a midshipman, USNR, in August 1944, Capt. Gravely attended midshipman school at Columbia University and graduated that December, gaining his commission as a Reserve ensign.

After duty as assistant battalion commander at NTC Great Lakes and schooling at the Sub-Chaser Training Center, Miami, Fla., he joined the crew of USS PC 1264.

Through the closing months of World War II and until February 1946, he served as communications officer, electronics officer, and later executive officer and personnel officer of the ship, one of the first two Navy ships with all-black enlisted crews.

After three years out of active duty, Capt. Gravely returned to the Navy in 1949. His first duty was with the Naval Recruiting Station and Office of Naval Officer Procurement, Washington.

After a communications course from October 1951 to February 1952, he served as radio officer of USS IOWA (BB 61) until June 1953.

Then he transferred to USS TOLEDO (CA 133), on which he was communications officer and assistant operations officer. He took part in Korean action while serving on both ships.

In July 1955, he became assistant district security officer for the 3rd Naval District. Capt. Gravely took an amphibious warfare course in the fall of 1957, then joined USS SEMINOLE (AKA 104) as operations officer.

In January 1960 he became executive officer of USS THEODORE E. CHANDLER (DD 717). He took command of CHANDLER 15 Feb. 1961.

Capt. Gravely's second command was assumed Jan. 31, 1962: USS FALGOUT (DER 324). Under then-Lcdr. Gravely's command, FALGOUT patrolled the Pacific Early Warning Barrier.

He attended a naval warfare course at the Naval War College, Newport, from August 1963 to June 1964, then served as program manager of the National Emergency Airborne Command Post.

In January 1966 Capt. Gravely received still another destroyer command: USS TAUSSIG (DD 746). In June 1968 he became coordinator of the Navy Satellite Communications Program in the office of the CNO, with additional duties in the Navy's space program.

In May 1970, Capt. Gravely assumed his present command of the guided missile frigate USS JOUETT (DLG 29).

"If a man is going to succeed he'll make it no matter what he is doing!" That is the personal philosophy of Captain Paul S. Green, MC, USNR, who is now chief radiologist and executive officer of the Naval Hospital, Lemoore, Calif.

He's demonstrated it in his own life. Capt. Green didn't originally plan to make the Navy a career (he was drafted, in fact)—but during his 16 years of active duty, he's been certified by the American Board of Radiology and has attained one of the highest ranks available to a Reserve officer.

"Probably none of this would have happened if I had been given a choice," he said. I had a very successful civilian practice and had absolutely no desire to serve with the military.

"Mine is not the story of 'rags to riches,'" the doctor says, recalling his early life in Warren County, N.C. "I've never lived in a ghetto. My father was a businessman and a very good provider. It wasn't difficult for him to put three children through college at the same time. We always had plenty to eat and lived in a comfortable home."

After graduating as valedictorian of his high school class, Capt. Green entered Shaw University, Raleigh, N.C., graduating in 1939 with a major in biology.

"I certainly didn't set any academic records there," he says. "I was much more interested in the bright lights in the big city and, like

most young men, wanted to buy an automobile."

Armed with his diploma and a teaching certificate, Capt. Green tried unsuccessfully to find work as a teacher.

"As I look back," the doctor comments, "I can see why no one was impressed with my supposed teaching ability. I was only 19 years old and right out of college. Fortunately, for me, I was able to get a job with my father working in a fruit and produce store.

"I earned money to buy things, but after two years I felt I wasn't really accomplishing anything. I entered Howard University in Washington, to work on a master's degree in zoology. Shortly afterward, in September 1941, I was accepted for medical school."

Through an accelerated year-round program of study, he earned his M.D. degree in December 1944. For the next year he served his internship at Lincoln Hospital in Durham, N.C., and then went into private practice in the small town of Louisa, N.C., where, as that community's only black doctor, "I was declared essential and given a deferment.

"A year later, I moved to Henderson, N.C., a much larger town, where I again entered private practice."

As a general practitioner in Henderson, Dr. Green treated both black and white patients and his practice thrived for seven years.

"I had realized success as a civilian doctor," Capt. Green says, "when in 1954, I was drafted into the Navy as a lieutenant, and a bit disappointed at having to give up my practice."

But his attitude soon changed.

"I had a great deal of respect for my co-workers in Navy medicine," he says, "and found that I not only liked my work very much, but the Navy as well. I guess 'infatuated' best describes my attitude."

So when his two-year obligation was up, Dr. Green extended for six months—then for four years—and finally applied for and received an indefinite extension.

After his first duty at the Naval Gun Factory, Washington, Capt. Green went to the Naval Hospital, San Diego as officer in charge of a mobile X-ray unit. This duty started him working on the specialty that led to certification as a radiologist.

All applicants for certification by the American Board of Radiology must complete three years of specialized training and one year of practice in radiology, plus written and oral examinations.

Looking forward to his eventual return to civilian life, Capt. Green again shows he believes in his philosophy of success. "As a radiologist," he says, "there's no reason in the world why I can't build a successful private practice."

NONPEACEFUL PROTESTS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. DERWINSKI. Mr. Speaker, WBBM radio though observing the Washington scene from a distance, is obviously being provided full coverage by their network. They reached, I believe, a very proper conclusion concerning Rennie Davis in an editorial on nonpeaceful protests which was broadcast May 7.

The editorial follows:

NONPEACEFUL PROTESTS

Rennie Davis—the professional malcontent—brought his so-called People's Coalition to Washington this week. They said

they were going to stop the government. They didn't. But what they did do was to once again damage the cause of the many persons who believe in peaceful protests.

You do not win people to your way of thinking by disrupting their lives, by starting fires, by slashing tires, and generally making things rough for them.

A week earlier, there was a convincing peaceful demonstration of many Americans who want the government to know they are sick to death of the Viet Nam War. We certainly think the President himself is honestly seeking a way out of that tragic conflict. Many persons however, disagree with his approach to total withdrawal and feel it could be accomplished quicker. But staging violent demonstrations is not going to win him over.

Peaceful protesters tend to win more people to their cause. No one is going to be forced into changing his mind by a mob. The kind of stupidity that was staged by Rennie Davis and his followers in Washington only chases away people from the peace movement. Davis merely managed to weaken efforts to end the Viet Nam War. The peace movement would do well to renounce Rennie Davis and his violent supporters. He is destroying, not helping, the effort to convince Americans that we should get out of Viet Nam.

RECORDS OF A COUNTY CHAIRMAN

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. SPRINGER. Mr. Speaker, I know that many of us have our supporters who do jobs in the precincts and some of whom are county chairmen and carry the party load at that level.

One of the fine county chairmen of my district is Mr. H. G. "Skinny" Taylor, of Decatur, Macon County, Ill. The Decatur Review, of Friday, May 7, tells of the problems and trials of a county chairman.

The problems of Mr. Taylor are the problems of any county chairman whether Democrat or Republican, and the job that he does through 24 hours of the day would be the same in either party. I doubt if the duties of many county chairmen are spelled out, and I feel sure that some of my colleagues will be interested in learning about the many details handled by the county chairman and how he goes about his daily work. This is a splendid story on the practical side of the duties of a man who helps to elect his party to power. I am sure that if a county chairman among the Democrats were interviewed he probably could record much of the same that has been said about Mr. Taylor, who happens to be a Republican county chairman and formerly the chairman of the County Chairmen Association of the State of Illinois.

The article follows:

RECORDS OF A COUNTY CHAIRMAN: PHONE CALLS, TRIPS BY THOUSANDS

(By Glen R. Cooper)

H. G. "Skinny" Taylor practices politics, Republican brand, about 24 hours a day.

This is and should be a way of life for the chairman of the Macon County Republican Central Committee.

The committee is made up of the Republican committeemen of the 110 precincts of Macon County.

To get to be chairman of the central committee the first requirement is to be elected committeeman in a precinct.

The second step is to win support of a majority of the committeemen.

Taylor represents the Republicans from Precinct 12, the Dennis School area.

His job as committeeman hasn't always been an easy road. Several attempts have been made to vote him out of the nonpaying position.

Some of the most lively inparty fights have developed when some ambitious Republican decided to challenge Taylor.

None of these has been successful. Taylor keeps his own precinct in order as well as the county central committee.

POLITICAL UPS AND DOWNS

Taylor admits to some political ups and downs. Right now the GOP holds just two elected offices in the County Building—corner and head of the county school system.

"We did real well in the last township election. There are 27 Republicans and eight Democrats on the Board of Supervisors," he said.

This puts the GOP supervisors in the position of naming two major professional officeholders—county superintendent of high ways and supervisor of assessments.

Taylor is in his 23rd year as county chairman, and he brought out some interesting facts this week in talking about the job.

His bookkeeping shows he has made 43,800 local telephone calls that dealt strictly with politics.

The calls were about patronage jobs, election strategy, meetings and private sessions dealing with the 300 or 400 patronage jobs that he helps fill.

As chairman of the central committee, Taylor is head of the executive committee that passes on patronage job applicants.

ACTIVITY IN SPRINGFIELD

Incidentally, people interested in patronage jobs must first get the approval of the precinct committeeman who passed it on to the county central committee patronage group.

Taylor's political bookkeeping also discloses he has, in nearly 23 years, made 3,432 calls to Springfield to talk politics.

Many of these have been to Republican governors or other state-level officials. Taylor will also admit that he has frequently had a few words with the Democratic governors.

In addition to his Springfield calls, Taylor said he has driven to Springfield 1,200 times as a part of his political position.

Apparently some of the telephone calls had to be backed with personal visits to those involved.

On a national level and a pretty "fast track," Taylor has records of making 1,144 phone calls and 20 trips to Washington, D.C.

Taylor hasn't overlooked the local level, either. His notes record 660 meetings that involved political events. He tops off this with 400 meetings held in Springfield and other areas of the state.

PRACTICAL POLITICS

People close to Taylor claim that he tries to get some kind of a Republican rally started when he goes back to his hometown, Flat Rock, to visit.

There is another story that Taylor, when a student at Millikin University, was practicing the art of practical politics.

He came up with a key to Aston Hall, girl's dormitory, and loaned it out for a nominal fee or favor.

Taylor is one of few county chairmen of the state who has never held a patronage job.

"If I did I would have to give up some of my independence," he said.

Taylor's wife, Marlon, qualifies as a polit-

ical widow because of her husband's interest in Republican politics.

"That Skinny . . . last Friday he went to Chicago to attend a meeting and when he got there he discovered he was a week late," she said.

Taylor didn't count the trip as a complete loss.

"At least I was able to ride a train (the City of Decatur) on its final trip between Decatur and Chicago," he rationalized.

TENURE AS PRESIDENT

Taylor was first elected a precinct committeeman in 1934. He has been county chairman since 1948 and served as president of the Illinois Republican County Chairmen's Association for eight years.

His tenure as state president will probably never be broken. Rules of the organization now limit the terms of office.

In 1956 Taylor was delegate to the national Republican convention in San Francisco and in 1964 he returned to San Francisco as an alternate delegate.

Three years ago he was elected delegate to the GOP convention in Miami, Fla.

J. EDGAR HOOVER

HON. DAVE MARTIN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. MARTIN. Mr. President, The modern FBI was born May 10, 1924, when Attorney General Harlan Fiske Stone appointed 29-year-old J. Edgar Hoover Acting Director of the FBI.

Prior to this time, the FBI, then known as the Bureau of Investigation, was an often ridiculed organization of misfits, involved in blackmail, bribery and intimidation and with no direction toward the true purpose for which President Theodore Roosevelt had intended it on July 26, 1908, when it was established.

Under President Calvin Coolidge, Attorney General Stone was given the task of cleaning the house of the FBI. The Attorney General had envisioned a crime-fighting, law enforcement agency for the United States along the order of Scotland Yard. His appointment of J. Edgar Hoover as director subsequently led to the realization of this goal.

John Edgar Hoover was born January 1, 1895 in Washington, D.C. He received his law degree from George Washington University in 1916, and his master's degree the following year. He joined the Justice Department July 26, 1917, and on June 2, 1919, headed a new intelligence division to study subversive activities. He became an assistant director of the Bureau of Investigation August 22, 1921.

The ideals of the new director for the crime-fighting, law enforcement agency matched those of Attorney General Stone, and in 7 months, on December 10, 1924, Hoover was appointed Director of the Federal Bureau of Investigation.

Under his leadership, guidance, and administration, the FBI was to become the outstanding law enforcement agency that it is today. We need not recount the effectiveness of the FBI in the past four decades plus under Mr. Hoover. Kidnaping, espionage, subversion, organized crime, interstate theft, burglary and

larceny, fraud, gambling and racketeering, assault and crimes of murder have all been the targets of the FBI.

Who is to say how much good—how much value the FBI has been to this Nation over the years? Where we are a Nation of 50 individual States with thousands of counties and communities, what has been the full effect and value of the FBI—a single national agency to pool, coordinate, organize and work with these thousands of individual State and local law enforcement agencies to combat crime?

It should be clear to all Americans that the FBI has been without a doubt, the single most important and effective entity in our Nation for preservation of freedom, individual rights, peace and the law of the land that guarantees our freedom from persecution. And, J. Edgar Hoover deserves our appreciation and congratulations for his leadership and outstanding part in making the FBI what it is—in the interest and preservation of our rights to life, liberty, and the pursuit of happiness—free from the fear of persecution, exploitation, fraud and criminal assault.

On this 47th anniversary of his directorship of the FBI, I congratulate Mr. Hoover for his exemplary service to our country.

FOUNDING OF ST. MARY'S PARISH

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mrs. GRASSO. Mr. Speaker, it is a singular pleasure for me to inform my colleagues of an important anniversary that parishioners of St. Mary's Ukrainian Orthodox Church in New Britain will celebrate on May 16.

On that day 60 years ago, Ukrainians in this city in my district founded St. Mary's parish. And, like so many other churches established by hardy immigrant groups, it became the center of a new life for Ukrainians in America.

From that day in the early 1600's, when Ivan Bohdan landed in Virginia to aid Capt. John Smith in building the Jamestown colony, Ukrainian immigrants have had a significant impact on the growth and development of our Nation. Most Ukrainians came to America to escape political and religious persecution. The life of the early Ukrainian immigrant was not easy. Initially faced with poverty, hardship, and sometimes prejudice, they managed to overcome many of these burdens and to render this country the benefits of their skills and cultural heritage. Our Nation is all the richer for these stalwart citizens, who have the strength that comes from strongly held religious conviction and a deeply ingrained sense of justice—and as its members recall, six decades of growth—

As St. Mary's celebrates its 60th anniversary, all of us are reminded that we are a nation of immigrants and our tradition has been made rich because of it.

SST'S AND THE RED CHINA TRADE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. RARICK. Mr. Speaker, uncertainty of the SST funding may have upset many plans. Possibly the Red China aircraft market is the reason for refusal of the administration to play dead on the issue.

The British are already reportedly offering credit sales to Red China in order to sell British aircraft; TWA is hard at work securing charter flights to Red China; and in the meantime the Soviets are attacking the British-French supersonic Concorde airline, obviously hoping to sell the Soviet SST—the TU 144—to their Red Chinese comrades.

The whole issue again seems to show that poverty, ignorance, and communism do pay.

New Markets? Wait until Red Chinese imports produced at slave labor rates of \$20.00 a month hit the U.S. free market. This is hardly a way to solve U.S. unemployment.

I insert several newsclippings:

BRITISH OFFER CHINA CREDIT ON JETLINERS
(By Arthur L. Gavshon)

LONDON—British businessmen with governmental support quietly have offered Communist China a multimillion-dollar credit to finance the purchase of six jet airliners.

Qualified authorities, representing both sides, reported yesterday that Peking actively is planning to establish several long-range international air services linking China with other Asian lands, with Africa and with European countries including Albania, France and East Germany.

A negotiating team representing the Hawker-Siddeley group of companies, after more than two months of talks in Peking, was said to be slowly nearing agreement for the sale of six Trident airliners to the Chinese.

These high performance aircraft, with a range of 2,300 nautical miles when loaded, are valued at about \$5 million each. Any contract would include provision for the British to train Chinese pilots and engineers in their use and for maintenance and replacement facilities.

The British are keeping their fingers crossed that the deal will be the first of several. Their aim is to provide the aircraft the Chinese would require to modernize their internal air services and to launch their international network. For this a fleet of about 40 airplanes would be needed and Chinese representatives have been talking in terms of orders ultimately worth about \$250 million.

Hawker-Siddeley financial experts have been among the sales directors, design engineers and other technicians in negotiations with the Chinese. This has been taken to be a sign that the two sides have reached the stage of discussing terms, though they still may have a long way to go.

Informants said the British government has moved informally into the situation by indicating any commercial credits extended to the Chinese to facilitate the sale almost certainly would be covered. This is done by the Export Credit Guarantee Corp., a state agency, which examines foreign trade deals for their commercial security elements.

Subsequently Peking has been made aware by British merchant bankers that if it wants credit for the Tridents it can have it. Precise

details are now understood to be under official study in Peking.

The British know a Trident deal could win them a key supplier's role in the huge expansion program being contemplated by China's civil aviation managers. The field is being examined closely by international rivals, including U.S. salesmen with Boeing 707s to sell at prices lower than Trident.

London, however, seems to be making most of the fact that China cannot, for political reasons, commit itself at this time to buying either American or Soviet commercial aircraft. With the Americans, relations have not improved sufficiently.

And the Chinese recall that past Russian cooperation and supplies were cut off because of political quarrels.

CONCORDE'S SERIES OF 'DEFECTS' HIT BY
SOVIET PAPER

MOSCOW (AP)—The Soviet news agency Tass criticized the British-French supersonic Concorde airliner yesterday as a troubled-plagued aircraft that has been found to have a series of "defects."

The dispatch from London brought out into the open the Soviet effort to damage the Concorde's reputation while promoting the Soviet SST, the TU144.

The two planes already are in stiff competition for orders from Western airlines. The Soviet version is expected to be ready for export before the Concorde.

Tass seized on a British pilot's decision to turn back to Toulouse, France, in a test flight of the Concorde Friday night as proof that a new "defect" was discovered in the plane. The British said test pilot Brian Turshaw decided to "play safe" and turn back after take off because a warning light indicated a malfunction in the undercarriage main door.

"This is not the first time defects have been discovered in the Concorde," Tass said. "In Britain there is growing anxiety to the steep increase in the cost for the future of the aircraft due of its development and the uncertain prospects about finding a market for it."

CHARTER FLIGHTS TO CHINA SEEN

HONG KONG, May 8 (UPI)—Trans World Airlines will seek to operate charter flights to Communist China if the Peking government grants landing rights to American carriers, Norwood C. Wiser, president of TWA, said today.

He said there was a good chance that landing rights would be granted to more Western airlines. Air France and Pakistan International Airline now are operating scheduled flights to the Chinese mainland.

NEWSMEN SEE CHINA'S INDUSTRY

(By Tillman Durdin)

SHANGHAI, China—A small group of foreign newsmen, including this correspondent, began yesterday the substantive part of a four-day visit to Shanghai that promised an extensive look at China's largest city. We arrived Sunday noon and spent the remainder of the day in a quick tour of the city and at an evening performance of the ballet "White Haired Girl."

Our visit here still has a link with international table tennis, which was Peking's justification for letting us enter China. Traveling with us is a British table tennis team scheduled for a series of matches with Chinese players in Shanghai. But while officials arranged journalistic appointments to allow for attending the matches, they gave no indication that attention to the matches was an obligation. When all but the Reuters man opted out from seeing the games on the plea that dispatches had to be written, there were no official demurrers.

VISIT INDUSTRIAL CENTER

The journalistic group, which also included the Japanese, one Swiss, three Britons and

four Canadians, was informed that it would spend the morning seeing an exhibition of Shanghai industrial products and hearing about the city's industrial development, and that in the afternoon it would examine the political and social patterns of the big Shanghai machine tool plant.

The correspondents were also informed that the next day they would be taken to the countryside to visit a commune and a factory that makes table tennis balls.

They were told that tomorrow morning would be occupied by a visit to and talks with the staff of a hospital and a visit to a workers' settlement during the afternoon. On Thursday, the group leaves for two days in Tientsin.

HOSTS FIX ITINERARY

So far the Chinese hosts have fixed the itinerary and daily program, and the newsmen have accepted the arrangements thus far as offering good opportunities for initial insights into China.

This correspondent's one month visa has been validated through May 1, after which he was told, an extension would be considered.

So far the correspondents have been shown models that have been on the list for many visiting individuals and groups.

There has been no opportunity for any extended unaccompanied roving about, but this may be possible later.

There is a request to see the chairman of the Shanghai Revolutionary Committee, Chang Chun-chiao, the equivalent of the mayor of the city, and the response so far is that the matter is being considered.

STORIES UNCENSORED

Questioning has been intensive and responses immediate and candid during encounters so far. Dispatches are going out without censorship. The group's conducting officers, consisting of a Foreign Office representative from Peking and interpreters, are proving courteous and cooperative.

The visit to the products exhibition, housed in a huge columned structure with a tower and spire rising above the main hall, which was flanked by two wings, revealed an impressive sample of Shanghai manufacturers from both light and heavy industry.

A number of the most advanced machines were described as experimental models that were still under development. Cou Wen-yu, head of the exhibition's revolutionary committee and guide for the tour of the display, emphasized that the items were thoroughly Chinese and not copies of foreign products.

AUTOMOBILES DISPLAYED

A featured item was a huge 125,000-kilowatt turbo-generator with inner water cooled stator and rotor that foreign engineers have pronounced quite an achievement. It was described as still under development and not in service yet. The display of motor vehicles included two examples of a sedan called the Shanghai, a neat-looking medium-sized car bearing a considerable resemblance to the American Checker cab. No figures could be given on output.

Also exhibited was a 32-ton dump truck, a full range of other trucks, an attractive range of buses, and a rice transplanter said to be a test version of a long line of machines already in use but not entirely satisfactory.

Several of the complicated machines, including the generator, were said to be run by computers which, upon questioning, were revealed to be merely automated control apparatus.

ELECTRONICS GEAR SHOWN

A section devoted to the making of the basic materials for sophisticated electronics equipment such as radar, radio and guidance apparatus, made evident that progress enough has been made to explain Peking's firing of missiles, launching of space satellites and explosion of hydrogen bombs.

The section on consumer electronic items

such as transistor radios, tape recorders and television sets showed items below international standards in styling and higher than world levels in their retail prices.

The Shanghai machine tool plant, with a work force of 6,000 is the largest of its kind in the country and obviously a major link in the Chinese industrial chain.

It has been built up from a small plant, which was a joint Chinese-American venture before the Communist takeover, and it still contains some machinery made in the United States.

The plant now specializes in making grinding machines and doing precision grinding.

SOME MATERIAL EXPORTED

"We produce mainly for China's needs," said Yu Chiching, the plant spokesman and member of its revolutionary committee, "but some of our output is exported and has gone to 30 countries."

The blue-clad workers, many of whom are women, earn from \$20 to \$55 a month. They look cheerful and efficient. When it is considered that they get housing at nominal cost in a big state housing complex adjacent to the sprawling factory buildings, and have job security, cheap food and clothing and medical services and education for children at little cost their pay package is not as low as it might seem.

But all was not happiness in the plant. Yu himself said there were still problems within factory ranks of revisionism, the deviation attributed to Liu Shao-chi, purged former chief of state, and his partisans.

CRITICISM SESSIONS HELD

Another revolutionary committee member, Chen Hsmeh-kuei, stated "struggle-criticism-transformation" sessions were still being held and individuals were from time to time called to account by the workers.

With some embarrassment, he related how he himself had been subject to a criticism session recently.

The plant is famous for its workers' college, established to give higher technological education to selected workers.

The head of the revolutionary committee that runs the factory is an army political commissar.

In one room, where newsmen were asked not to take pictures, precision threading was in progress that could have been for defense-related equipment.

MINORITY GROUPS IN CHINA ARE LOSING RIGHTS, IDENTITY

(By Henry S. Bradsher)

HONG KONG—The racial and religious minorities of China are losing their special rights and distinctive ways.

Most of the 60 or so minority groups who long had separate cultural and geographic positions within China have been submerged by the Han, or majority Chinese, people.

Now the constitutional guarantees of the minorities are being eroded. The new draft constitution omits 1956 provisions for a voice in local government and preservation of group customs.

This new governmental constitution, still awaiting adoption, follows the Communist party constitution adopted in 1969.

The minorities are not numerous in comparison with the Han race. Population estimates are rough, but projections from the 1953 census suggest more than 40 million minority peoples and perhaps 750 million Han Chinese.

8 MILLION TO 700

The minority groups—some authorities count 52, others say 60—range from some 8 million Chuangs in the South, bordering North Vietnam, to 700 Hoche in Manchuria near the Soviet border.

Their importance is not in numbers but in

geographic spread. Minorities, now mixed with Han immigrants, are spread thinly over some 60 percent of China, while the Han people are densely concentrated in the eastern coastal area and river valleys up from it.

Almost all of China's land frontiers are minority areas. This heightens the minorities' importance in a time of border tension with the Soviet Union and earlier with India.

Strengthening these borders has been a major factor in the Han migration into minority areas. Economic development of the areas has been another factor.

These factors are steadily reducing the local majorities of the minority peoples in Sinkiang and Tibet. They are the only two out of five minority "autonomous regions" currently without Han preponderance.

The eroding of constitutional guarantees for the minorities and the submergence in Han migrants is not simply a Communist thing.

PARTLY HISTORIC

Partly it is historic. Many of the peoples of Southeast Asia were driven from what is now southern China by Han expansion over recent millennia.

It is also a result of the Peking government's centralized control of the nation. Communist ideology has played a role in fluctuating policies toward the minorities. But Han nationalism plays a larger role.

What is happening to China's minorities is not unusual. The history of the United States, parts of Africa, India and other areas provide similar examples in recent centuries. The Soviet Union provides a comparable example within the past 75 years.

As in some of these other cases, China can claim that it is bringing the benefits of modernization to backward peoples.

In the northwest, nomadism is being replaced with settled grazing; in the south, slash-and-burn shifting cultivation is giving way to more productive methods of farming, and in several areas feudal practices are being eliminated.

But in China, as elsewhere, the questions can be asked whether it is worth it, whether the people involved value their own ways above modernization, and who has the right to decide for them.

The constitution of the first Communist government that Mao Tse-tung set up, a short-lived regime established in Kiangsi province in 1931, promised national minorities the "right to complete separation from China, and to the formation of an independent state for each national minority."

This lasted about as long as some of the promises to the American Indians, or early Soviet promises to regions that wanted to escape Russian domination after the Bolshevik revolution.

When the Chinese Communist regime was established in 1949, the minorities were promised "separate rights." This was spelled out in 1952 to include setting up their own political organs, deciding upon the nature of reforms, keeping their own languages and religions, and freely developing their economies within a national plan.

However, People's Daily, the Communist party newspaper, warned that any separatist movement among minorities would be prohibited. And it also warned, in 1953, that the party would control the theoretically "autonomous" minority political areas.

SELF-GOVERNMENT ASSURED

The state constitution of 1954 said oppression of any nationality was prohibited and the right of self-government guaranteed. Minority participation in local government was specified and the freedom of preserve their customs promised, but not religious freedom.

The 1956 party constitution talked of helping the minorities. They were given control of their own social reforms, and Han offi-

cialists were warned against "tendencies of great-Hanism" superiority.

With the collectivization drive and then the Great Leap Forward in the late 1950s, these statements were flouted. Then in the early 1960s, new statements of respect for minority rights were adopted. And now the two new constitutions drop many guarantees.

Curiously, this fluctuation corresponds to the fluctuations of Mao's personal power. When he has been personally assertive, in the late 1950s and again in the last five years, minority rights have declined.

The new party constitution of 1969 mentions the minorities in a passing reference to the party's leading "all the nationalities" of China. It was adopted at the end of a stage of Mao's Cultural Revolution.

VOICE NOT GUARANTEED

The draft constitution for the government, circulating since last year, says different levels of government should support the minorities. But it does not guarantee them a voice in government. It promises the use of local languages, but not the preservation of customs.

The decline in rights has been reflected in the composition of Revolutionary Committees set up during the Cultural Revolution as the de facto local governments throughout China.

Following campaigns against "local nationalists" and "class enemies" in minority areas, which meant the purge of many minority community leaders who had worked with Han officials, the Revolutionary Committees emerged with almost no minority representation—even in supposedly "autonomous regions" of minorities.

The main exception to this was in Kwangsi, the southern province where a Chuang headed the committee. He has recently become the first secretary of the new party provincial committee, with Han deputies.

Other minority regions were slow in forming their post-Cultural Revolution party committees. These generally are following a pattern of using the same people as the army-dominated Revolutionary Committees.

The over-all picture is one of minority rights disappearing.

Religion—the Moslem and Buddhist religions are the main ones of minorities in China—is being stamped out because it offers an alternate focus of allegiance and attention to the Communist party-state apparatus.

Customs are fast being lost in the disruption of modernization.

The spread of a fairly homogeneous Han culture over the entire area of China is continuing its historic course, the pace now sped up by improved communications and a strong central government.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

"IRONIES OF ROGERS' GOAL"

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. SIKES. Mr. Speaker, I have called attention on a number of occasions to the fact that interest in reopening the Suez Canal stems primarily from Russia. That nation will enjoy the principal gains if the canal is reopened. Russia now has access to more Mediterranean ports than we. Easy availability to Red Sea and Indian Ocean ports for Russian naval vessels from the Mediterranean will provide a quantum jump for the Russians and will further downgrade U.S. naval strength worldwide. Our Government is carrying the ball for Russia on the Suez and seems oblivious to the long-term dangers of reopening the canal. Joseph Alsop in his syndicated column of May 10 has detailed this situation in a most effective manner. It is entitled "Ironies of Rogers' Goal." I submit it for reprinting in the CONGRESSIONAL RECORD and recommend that it be carefully read by my colleagues.

The column follows:

IRONIES OF ROGERS' GOAL

(By Joseph Alsop)

The hidden ironies of Secretary of State William Rogers' mission to the troubled Middle East are hardly possible to exaggerate. To begin with, the wisest handicappers give the secretary a rather better than even chance to "succeed"—in which case everyone in this country will burst into loud and happy cheers.

Success, in this instance, will mean securing Israeli Egyptian agreements, after further Middle Eastern bargaining, on what is known as the interim solution. The interim solution will involve some degree of military pullback from the banks of the Suez Canal, followed by reopening of the canal to traffic.

If this result is attained, it will offer the Israelis a long and rather reliable ceasefire on their most dangerous front, with the Egyptians. No one in his senses, after all, would waste a great deal of time and money on reopening the canal, without a strong desire to use the canal thereafter. And you cannot very well use a canal which is in the very midst of a war zone.

Right here, however, is the first and biggest irony lurking behind the Rogers mission to the Middle East. If the secretary secures agreement on the so-called interim solution, he will mainly do so because of the intense Soviet desire to reopen the canal and to use it.

The Egyptian or other Arab gain from the interim solution will be downright trifling, compared to the Soviet gain. In truth, the fair prospects for this solution are a simple measure of the enormous leverage that the Soviets now possess in Egypt.

The Soviet gain can also be simply measured. The reopening of the Suez Canal will automatically multiply by a factor of at least four, and perhaps even more than that, the Soviet naval power in the Red Sea and the Indian Ocean. The multiplication will be automatic because of the immense shortening of all distances for the Soviet navy.

A big base now being built at Port Sudan; another base on the Socotra Islands; a kind of proto-base on the island of Mauritius; secret negotiations now in progress with the government of Ceylon, for use of the great naval base at Trincomalee—these should be proof enough of the intensity of the Soviet

desire to be able to deploy important naval power in the Indian Ocean and the Red Sea.

The prize the Soviets are reaching for in this area is not in doubt, either. The British are leaving the Persian Gulf, which is shortly due to become a total power-vacuum. The Persian Gulf is like a great tap, turnable off or on, that controls most of the world's oil. A great extension of Soviet naval power is now needed, in sum, to get the world oil tap into Soviet hands.

As to the second great irony lurking behind the Rogers mission, it is also rather simple. In brief, the Israelis seem to be almost uniquely aware of the enormous risks of the extension of Soviet naval power that may now be in prospect. The Western Europeans could hardly care less. This country appears to be equally unworried, despite the frightful upset of the world balance that will promptly result if the Soviets ever get their hands on the world oil tap.

The Israelis, in contrast, are very deeply worried. The defense minister, Gen. Moshe Dayan, was the first man in Israel to come out in public for the interim solution. But when he did so, he also passed the word that he would withdraw his suggestion immediately, if the U.S. government objected to the reopening of the Suez Canal.

There was no answer to Dayan. There was no answer, either, to Dayan's cabinet colleague and political rival, Yigal Allon, when he made the same point in Washington some weeks ago. In Jerusalem, again, the point was raised with Secretary Rogers with some bluntness. Yet the American negotiators continued to press for the interim solution.

There are two reasons for this bizarre situation, in which the Israelis have shown more concern than the Americans for vital American interests. The first reason is that the Israelis are not victims of the popular American delusion that the Soviets have somehow changed their spots. They are quite sure the Soviets will grab for the world oil tap, if the grabbing ever looks easy to them.

In addition, the Soviet intervention in the Middle East has taught the Israelis a grim lesson. The lesson is that despite their own great courage, they live and do their business and enjoy their freedom by virtue of the guts and power of the United States, so they naturally worry about what may happen to the United States, even if people here do not worry!

ANNIVERSARY OF POLISH INDEPENDENCE COMMEMORATED

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. RODINO. Mr. Speaker, I wish to again affirm my commitment—to the people of Poland who recently commemorated the anniversary of the adoption of their constitution in 1791—to all men who seek self-determined liberation—to the sovereignty of the people.

Those of us who are custodians of democratic orders must not neglect the precious essence of liberty—that if the rights of one man are denied and such action is permitted to go unopposed, the freedom of each of us, individually and collectively, is jeopardized.

The brave and undaunted people of Poland deserve our commendation, our respect and our support. And, we share their commitment to a rebirth of liberty in their homeland.

ANTIWAR DEMONSTRATIONS AIRED BY REPUBLICAN NATIONAL COMMITTEE

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. GOLDWATER. Mr. Speaker, the Republican National Committee's weekly publication, Monday, this week has a few articles which I believe will be of interest to my colleagues. The articles deal with the recent antiwar demonstrations and the press coverage of them, and a poll on the war and the President's handling of it:

DEMONSTRATION PLANNED IN NORTH VIETNAM, YIPPIE LEADER SAYS

Convicted riot leader and New Leftist Jerry Rubin has asserted that the recent demonstrations in Washington were "planned" in North Vietnam. "This demonstration in Washington is a conspiracy and it was planned in North Vietnam and I don't think we should be ashamed of that," Yippie leader Jerry Rubin told University of Wisconsin students April 28 at the Parkside Campus in Kenosha. "This is a Viet Cong flag I'm wearing, by the way," he explained. "It's amazing no one knows the flag of the enemy . . . I support the National Liberation Front" (the Communists). Rubin's statement that the demonstrations were planned by the Communists was carried by television station WISN in Milwaukee. MONDAY has heard the broadcast and confirmed the quotes.

DEMOCRAT SUPPORT

According to the National Peace Action Coalition, the April 24 march was endorsed by 34 Democratic members of the House, and nine Democratic Senators: Mike Gravel, Alaska; Fred Harris, Okla.; Phillip Hart, Mich.; Vance Hartke, Ind.; George McGovern, S.D.; Edmund Muskie, Me.; John Tunney, Calif.; Harrison Williams, N.J.; and Harold Hughes, Iowa. The Congressional Quarterly reports the rally was also supported by ex-Sen. Eugene McCarthy and ex-Rep. Allard Lowenstein, both Democrats.

Although it has been virtually ignored by both the electronic and the print media in this country, there has been extensive and approving coverage in the Communist media of the demonstrations. A MONDAY survey of the Communist media as reported by the Foreign Broadcast Information Service has turned up these comments:

HAILED BY HANOI

Hanoi's largest newspaper, NHAN DAN, editorialized: "The Vietnamese people warmly hail the undaunted and valiant struggle of the American people and regard this (the demonstrations) as a valuable support and encouragement to them, final victory will certainly belong to the peoples of our two countries." The paper noted that demonstrators included "Congressmen and politicians" saying: "It is characterized by the magnitude of its scale and by the strong spirit and broad composition of the participants. People from the upper strata and political circles are participating in bigger numbers and spirit compared with the previous campaigns. Senator Edmund Muskie, a very well-known leader of the Democratic Party stated: 'The war is wrong. The American people know it is wrong, and we want to end it.'"

The clandestine Communist radio broadcasting in Vietnam to South Vietnam hailed the demonstrations as a "priceless encouragement and a harmonious coordination of the 'second front' (in the U.S.) with the struggle in Indochina against the aggressive war of the U.S. administration." The

broadcast labeled the protests an "upsurge of common sense and a manifestation of nationalism, bravery, determination, eagerness for peace, and the international spirit of the American people."

STRUGGLE PRAISED

Another radio broadcast an open letter from the Communist South Vietnamese People's Committee for Solidarity with the American People to the American people. It praised the demonstrations and recalled previous activities "in the United States in the Fall of 1969 and your seething demonstrations in the Spring of 1970." "May your struggle, friends, be crowned with great success," the letter ended.

In Laos, the Communist Pathet Lao News Agency broadcast an open letter from Prince Souphanouvong to the demonstrators which praised their "courageous struggle" as having made "an active contribution to ours. We take this opportunity to express our deep gratitude to you. In close coordination with the glorious anti-war campaign of the American people, our just struggle for national salvation will surely triumph." (This "just struggle" spoken of by the Prince means a Communist take-over of Laos. A situation which President John F. Kennedy said in 1961 would endanger the security of "all Southeast Asia.")

Communist China's New China News Agency praised the "just struggle" of the demonstrators and Peking's paper, the "People's Daily," carried an article written by "worker-commentators" which declared: "We Chinese workers and the entire Chinese people firmly stand by the American people and fully support their just struggle."

SOVIET SUPPORT

A Radio Moscow broadcast in English to North America discussed the demands of the demonstrators—an immediate halt to American aggression, and removal of U.S. troops from South Vietnam—and declared: "The Soviet Union also supports these demands . . ."

In addition to foreign broadcasts, the Communists also communicated their support of the anti-war demonstrations directly to the parties involved. In a letter published by the Liberation News Service to those she called "American friends participating in the demonstrations," NLF's chief negotiator in Paris, Madame Binh, wrote: "I wish great successes to your Spring Offensive and hope that different groups of the U.S. anti-war movement will come to still better coordination in taking more effective actions to demand that the Nixon Administration seriously negotiate a political solution to bring about an early end to the war . . ."

CONGRATULATIONS MADAM BINH

In an earlier interview with the underground news service, Madame Binh was asked if she looked upon the anti-war movement in the U.S. as a serious factor in the overall situation or does she see it as simply a beautiful gesture? She replied: "We believe that what they have done, and what they are doing, will contribute to our common struggle against the war . . . we shall always follow closely the anti-war movement in the United States. We congratulate them and thank them."

COMMUNIST MEDIA COVERAGE OF DEMONSTRATIONS GETS LITTLE COVERAGE IN USA

Is the extensive and favorable coverage by the Communist media of the anti-war demonstrations in this country newsworthy? Monday contacted several TV and newspaper editors and put two questions to them: (1) Did you run anything about the Communist coverage of the demonstrations, and (2) If not, why?

"I don't think so," said J. W. Anderson, foreign editor of the Washington Post. "Minor squibs, maybe. We pretty well take for

granted that the Communists will cover these demonstrations." Because of the predictability of the Communist reaction, Anderson explained, he didn't feel the coverage was newsworthy. "But certainly the Communist coverage of the demonstrations couldn't be any more predictable than the demonstrations themselves," Monday asked, "yet the Post covers them extensively." "You have an interesting point," Anderson concluded. "Perhaps we ought to go back and take a look at this."

TIMES CARRIES "VERY LITTLE"

N.Y. Times foreign editor James Greenfield said the Times carried "very little" on the subject but did admit it was newsworthy. There are space problems, he explained, which keep news like this from getting in the paper. "We are preparing a piece on this now," he said, "and it should appear in a few days." Greenfield agreed that such demonstrations here in this country give aid and comfort to the enemy.

CBS television news assistant foreign editor Ted Landreth recalled a one paragraph story at the end of a radio broadcast on the subject but said the item came too late to make a Friday TV newscast and was too old for the Saturday night news. Landreth told Monday that he was familiar with the Communist coverage of the demonstrations but "I don't consider them newsworthy. It happens all the time. They're predictable." But how do your viewers know the Communist media coverage of these demonstrations is the same if they've never seen a story about it on your network, Monday asked. Landreth suggested that people interested in foreign news of this type read Atlas magazine.

NBC "ABSOLUTELY NOTHING"

NBC TV news editor Bruce Sloan, who said he spoke only for the TV side of his operation, told Monday there was "absolutely nothing" on film about Communist coverage of the demonstrations. "I don't think it's newsworthy," he explained.

"If we did carry something I think it could be kissed off in one line." Sloan said he thought it was "irrelevant" whether or not the demonstrations gave aid or comfort to the enemy. In an aside, Sloan commented that what the United States is doing in Vietnam "is the same thing the Nazis did in Germany." The only difference, he declared, "is numbers."

The foreign editor of the Los Angeles Times, Robert Gibson, told Monday his paper had a 400 word piece on the subject about two weeks ago. The article was about Radio Hanoi's coverage of the anti-war demonstrations. Gibson said there had been no round-up article covering all the Communist media coverage but said the question was "a perfectly valid one."

72 PERCENT SUPPORT NIXON PLAN TO END WAR, POLL SHOWS

The public seems willing to endorse any plan that promises to bring all U.S. troops home from Vietnam soon—but not if it endangers our POW's or threatens a Communist take over, according to the latest survey conducted by Opinion Research Corporation of Princeton, N.J. 72% of the public say they support President Nixon in his plan to end the war in Southeast Asia, compared to 18% who do not support his plan and 10% who have no opinion. At the same time, 68% of those polled would approve their Congressman voting for a proposal requiring the U.S. Government to bring home all U.S. troops before the end of this year; 20% opposed this move and 12% have no opinion.

However, when various possible consequences of quick withdrawal are tested, the public is against withdrawal of all U.S. troops by the end of 1971 if it means a Communist take over of South Vietnam. When asked if they would favor withdrawal of all U.S. troops by the end of the year if it meant a Com-

munist takeover of South Vietnam, 55% said no, 29% said yes, and 16% had no opinion. Also, an overwhelming majority, 75%, would not favor withdrawal by the end of 1971 if it threatened the lives or safety of the United States POW's held by North Vietnam. 11% of those polled would favor such a withdrawal and 14% had no opinion.

The results of this survey were obtained by nationwide telephone interviews conducted among 1,026 persons age 18 and over during the period May 1 and 2.

FEDERAL AID AUTHORIZATION FOR SCIENCE EDUCATION

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. DULSKI. Mr. Speaker, the House Committee on Science and Astronautics has authorized increased funding for science education particularly for the trainee program in fiscal 1972.

The increase in funding for science education over the administration's recommendation totaled \$22 million. Included in this figure is \$2 million for the program known as Student Science Training Program—SSTP.

The need for Federal support of science education is well documented and the success of the trainee programs is exemplary.

One of the more successful projects under SSTP is one carried on in my home city of Buffalo, N.Y. where we have an extremely active medical school, fine hospitals, and one of the world's outstanding medical research facilities, the Roswell Park Memorial Institute.

At a hearing of the House Appropriations Subcommittee on HUD-Space-Science this morning, I had the pleasure of introducing a witness to discuss the overall science education program and in particular the SSTP program.

He is Dr. Edwin A. Mirand, associate director and dean of graduate studies at Roswell Park Memorial Institute.

He gave a very excellent explanation of the need for reconsidering our priorities on science education on the basis of his long experience with federally assisted science programs.

Following is the text of Dr. Mirand's prepared remarks:

STATEMENT BY DR. EDWIN A. MIRAND

Mr. Chairman, Gentlemen of the Subcommittee:

Your invitation to appear before this Committee is greatly appreciated. Many of my colleagues throughout the United States and I have labored long to improve science education.

We have assisted the National Science Foundation in devising their science education programs, have helped run them, and have petitioned Congress to insure their continuance.

We are pleased to find that the House Science and Astronautics Committee on April 29th approved the action taken by the House Science and Research and Development Subcommittee to restore the deleted educational programs and in particular, the Student Science Training Program (SSTP) to the budgetary levels of FY 1971.

It is heart-warming that the Committee has, furthermore, mandated upon the Direc-

tor of the National Science Foundation (NSF) the necessity to expand these funds expressly in support of the programs designated in each line of the budget, allowing only minor changes.

We are here to request that these decisions of the House Science and Astronautics Committee be approved by this Committee and be forwarded to the full House for its approval. Your approval of the budget presented to you requires the NSF to carry out the aim of the Congress and insures that this will not be obviated by shifting funds at the NSF Director's discretion.

MISTAKE IN PRIORITIES

We are extremely concerned about the NSF decision to terminate support of the SSTP after the summer of 1971. We feel that it reflects mistaken judgment concerning national priorities.

My own interest in the NSF educational budget arises out of more than 18 years of experience as a Director of SSTP programs which have permitted me to introduce to careers in science more than 2,000 talented high school students.

My staff and I have given of ourselves far beyond the call of our institution and the funds allocated for these purposes because we feel it is every scientist's duty not only to increase the scope of man's knowledge, but also to provide the next generation of scientists to carry the work forward.

Colleagues of mine who operate other SSTP programs—Dr. Victor Satinsky of Hahnemann Medical College; Dr. Loren G. Hill of the University of Oklahoma; Dr. Kenneth J. Torgerson of the University of Arizona; Dr. Frantisek Wolf of the University of California; Drs. J. A. Hynek and Jay Burns of Northwestern University; Dr. J. Christman of Loyola University, New Orleans, La., and many other SSTP directors—participate in such work because of their dedication to the needs of the next generation of scientists.

NSF SUPPORT INDISPENSABLE

Our intense feelings concerning continuation of this program arise out of essentially selfless motives: We contribute far in excess of any support the NSF might give. However, NSF support is indispensable for the success of the program.

The national publicity and the prestige of the NSF makes it possible for the most talented young people to offer themselves. They do so in numbers far in excess of the meager capacity of the programs available.

Approximately ten times as many applications are received as appointments available. This competition is good for the student and heightens his interest. Furthermore, SSTP introduces young people to science at a time when they are first making their career choices.

The program is offered to high ability high school juniors, who get a brief but very vital acquaintance with the latest ideas and concepts of science, who meet other talented individuals for the first time and who learn to stretch their mental muscles.

It permits them to be oriented to multiple disciplines in the sciences so that they may choose their academic careers more wisely. They cannot receive such experience in the normal high school environment.

MOST SUCCESSFUL NSF PROGRAM

By all odds, the SSTP has been the most successful of the educational programs offered by the NSF. It also has forced the instructional staffs at high schools constantly to upgrade their own knowledge.

The assistant director of the National Science Foundation stated on January 15, 1971, that the program was being terminated because it had not been sufficiently evaluated and was deemed unfruitful. However, the contrary is the case.

SSTP is the only program that had been

thoroughly evaluated by the NSF. Since 1959, there have been six followup studies.

The general tenor of these evaluations has been that the SSTP participants, when compared with other students of equal interest and intelligence, were more likely to choose a science major in college, to go on to graduate school, and to win graduate degrees. In short, they have displayed more marked motivation to work in science.

Summarizing these statistics, we noted that a followup of 5,000 cases of 1960 high school participants showed that 85% of the males and 67% of the females were undergraduate science majors. When this survey was made (1967), 82% of these males and 71% of these females were graduate students with science majors. SSTP can thus not be faulted for lack of productivity.

INDIVIDUAL CASES CITED

The human content of the program may be indicated by citing a few cases. I am particularly moved to mention to you the career of my former student, Lawrence Okun. Dr. Okun took an undergraduate degree in physics at Wesleyan and a doctoral degree in molecular genetics at Stanford. He is now a post-doctoral fellow at Harvard Medical School.

The SSTP Director of the Jackson Laboratories, Mr. R. F. Shea, is proud of many of his illustrious alumni. Two of them, Dr. Howard M. Temin, at the University of Wisconsin, and Dr. David A. Baltimore, now at M.I.T., have both made substantial contributions to the fields of molecular biology and cancer research.

Dr. Leo Gross, Director of the Waldemar Medical Research Foundation program, tells of a young man suffering from a hereditary ailment—Gaucher's disease—who has dedicated his life to the study of metabolic diseases, now as a Professor of Medicine at the University of Illinois.

A talented young man's boredom, resulting from insufficient challenges within his high school experiences, apparently underwent impressive changes after his intellectual challenge in the Waldemar program. He is now an Associate Professor of Psychology at the University of Oregon and the Director of the Clinical Psychology Laboratory.

ENORMOUS IMPACT ON STUDENTS

Without question, the impact of SSTP experiences on the student participant has been enormous. The few cases cited above are like the tip of the iceberg projecting above the water.

The rapid growth in critical thinking and in creativity generated by SSTP participation results in the development of constructive attitudes and philosophies which cannot be derived from textbooks or the high school environment alone.

These students are truly exposed to the scientific method in exploring the unknown at a time in their lives that is critical to their future development.

Clearly, SSTP has achieved the goals set by the NSF since it first undertook 13 years ago to win talented individuals to choose scientific careers.

Continuation of SSTP at present is especially vital to provide scientific talent for all levels of our technologic society in view of the trend away from science in high schools and on the campuses of our universities.

Were it curtailed, the future supply of talented individuals necessary for national scientific excellence might be sorely limited. Moreover, it is the NSF's mandate to concentrate on developing potential scientists. This group is a fragile resource, capable of being shunted to other fields of endeavor.

CUT IGNORES FUTURE NEED

The NSF's plan to terminate support for SSTP on the basis of a current oversupply of scientific and technical talent is disquieting. It ignores the condition that this pro-

gram's productivity in terms of needs is ten years into the future.

May we not see at that time shortages in scientific personnel similar to those the nation experienced prior to World War II and in 1958 post-Sputnik years?

The NSF Directors, by their own admission, made the choice to curtail SSTP and other educational programs without consultation with the NSF staff and advisers and followed the edicts of the Office of the Management of the Budget (OMB), which may have been unaware of the nature of the programs or of their success.

The *Chicago Daily News* of May 1, 1971, reported OMB Director, George P. Schultz, as stating mistakenly that this program had "a small effect . . . on student choices . . . and we don't see now the need . . . to add more men in science."

You know from previously quoted NSF studies that the SSTP program is effective in winning students to scientific careers and that national excellence requires an intelligent, talented cadre of scientific leaders in the future.

SCIENCE STRESS MISPLACED

What is more distressing to us is the fact that the NSF Administration's stress is misplaced. In creating the National Science Foundation in Public Law 507—81st Congress, as amended through July 18, 1968, the Congress stated in section 3, paragraph A (1)—and we quote "that the Foundation is authorized and directed to initiate and support basic scientific research and programs to strengthen scientific research potential in the mathematical, physical medical, biological, engineering, social and other sciences . . ."

We do not for a moment question the importance of dealing with such societal problems as pollution, urbanization, transportation and the production of energy. However, to substitute these areas for the "hard" sciences even limits our very ability to deal effectively in the long run with these societal problems.

The SSTP program and other educational programs of the National Science Foundation that were scheduled for curtailment by the NSF are just those programs called for by the law that "strengthen the scientific research potential" of our country.

The NSF's decision to terminate SSTP is defended by Dr. Lloyd G. Humphreys, Assistant NSF Director (Education) for the very reasons these programs should be continued when he says "when we look to the future, the need to educate in science and technology a greater variety of people for a broader range of purposes assumes increasing importance." (Remarks before the House Science and Astronautics Committee, March, 1971).

CUT IS POLICY CONFLICT

Further, it is an anomaly that a successful program, which brings 5,000 young people into intellectually gainful occupations for the summer, should be terminated at a time when President Nixon acts to increase summer jobs for youth. Mr. Nixon's plan will provide \$64 million to put "disadvantaged" teen-agers to work this summer (*Chicago Sun-Times*, April 10, 1971).

Compare this to the \$2 million recommended and approved by the House Science and Astronautics Committee, which will put a proportionally far larger number of young people into summer occupations that will reap fantastic dividends for the country ten years in the future.

Dr. Philip Handler, head of the National Academy of Sciences, has decried as misplaced the conception of national priorities followed by the NSF in reducing educational support and in directing the National Science Foundation more and more toward applied research, contrary to the original intentions spelled out at the time of its founding (*Science*, April 16, 1971).

AIMED AT TALENTED FEW

The training offered by the SSTP, and the other NSF educational programs is designed for the small, but admittedly talented, group of individuals who are of increasing importance to national welfare in our technological age.

Scientific talent is not a generally available commodity. It requires a special turn of mind, a consuming curiosity about the unknown. It is a delicate plant that must be carefully nurtured to grow.

I should like to point out again that none of the people who have written to support a mandate upon the NSF to continue its educational programs could even remotely benefit personally by the continuation of these programs.

They have written to you, as I did, solely because we all feel strongly that these programs should be continued on the basis of their merit. I suspect you rarely receive requests for program support where the constituents themselves do not have a direct interest.

I earnestly solicit your support for the NSF budget, as approved by the House Science and Astronautics Committee and the mandate the Committee has placed upon the NSF to continue these specific programs. More than 150 present and past directors of SSTP activities in the universities and research institutions of our country join with me in this request.

I thank you for your courtesy in letting me appear before you.

SSTP EVALUATION STUDIES BY THE NATIONAL SCIENCE FOUNDATION

1. Edgerton, Harold A. "A Look at the 1959 National Science Foundation's Summer Science Training Programs for High Ability Secondary School Students", Richardson, Bellows, Henry & Co., Inc., New York, Dec. 1959.
2. Edgerton, Harold A. "Impact of a National Science Foundation's Summer Science Training Programs for High Ability Secondary School Students", Richardson, Bellows, Henry & Co., New York, Dec. 1961.
3. Edgerton, Harold A. "Three Years after SSTP—A Follow-up Study of the Participants in the 1960 SSTP", Performance Research, Inc., Washington, D.C., April 1965.
4. "Follow-up Study of 1960 SSTP Participants—Five Years after Participation", American Institute for Research, Silver Spring, Md., Jan. 1968.
5. "Follow-up Study of 1963 SSTP Participants—Three Years after Participation", American Institute for Research, Silver Spring, Md., Jan. 1968.
6. In press.

THE 23D ANNIVERSARY OF THE ESTABLISHMENT OF THE STATE OF ISRAEL

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES
Wednesday, May 12, 1971

Mr. ANNUNZIO. Mr. Speaker, it gives me great pleasure to join my colleagues in commemorating the 23d anniversary of the establishment of the State of Israel.

Twenty-three years ago, on May 15, the last garrison of British troops left Palestine and the nation of Israel was formed. With its proclamation of independence on that day, Israel joined the family of free nations, and her people realized the fulfillment of a centuries-old dream. After having endured untold hardships,

the Jewish people took their rightful place in the world, and for more than two decades, the State of Israel has served as an example to all nations of what a determined people can do under a free democratic government.

Since her establishment in 1948, Israel's people achieved a near-miracle, for they have built a land out of the desert against tremendous odds. What has been achieved there is nothing short of remarkable. In the field of agriculture, thousands of acres have been reclaimed; in the field of industry, thousands of new enterprises have been created; and new towns, cities, hospitals, schools, and universities have been founded to provide the necessary facilities for the expanding population as well as the growing economy.

Today Israel lives in the midst of mounting outside conflict. Though small in size, her courage, and determination are boundless. To this day, she emulates those admirable qualities which insured her formation 23 years ago, and today, she stands as an outstanding symbol of democratic ideals.

Mr. Speaker, the world is indebted to Israel for all that she has given to the advancement of Western civilization. Much of our judicial procedure has been based on her mosaic system of laws. Music, art, education, and countless other areas have benefited from the contributions of her people.

In the Seventh Congressional District of Illinois, which I have the privilege to represent, many thousands of Americans of Jewish descent reside. On the occasion of the 23d anniversary of the State of Israel, I extend to them and to all of the Jewish people my best wishes for peace and prosperity. As the people of Israel continue to demonstrate the vision, the daring and the fortitude they have shown in the past, I know that in the years ahead Israel shall continue to increase its stature as one of the leaders of the free world.

PRESIDENT MEETS UNIVERSITY OF MARYLAND STUDENTS

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES
Wednesday, May 12, 1971

Mr. HOGAN. Mr. Speaker, yesterday I called to the attention of my colleagues an incident which occurred on the University of Maryland campus in my congressional district. I mentioned a photograph in the Evening Star which showed two students at the University who stood guard over the American flag while a group of demonstrators attempted to lower the flag on the campus so that it could be flown upside down.

Since my remarks yesterday I have received further elaboration on this incident which I would like to share with my colleagues. Apparently, the 200 or so demonstrators on the college campus had already lowered the flag, trampled it on the ground, and flown it upside down at half-mast, when David Simpson

and Charles Blocker broke through the crowd. These two young men then righted the flag and stood guard over it, proclaiming that the campus flag belongs to all 36,000 students at the University of Maryland not just to the 200 or so protesters who represent only a small fraction of the entire student body.

Mr. Speaker, I commended both David Simpson and Charles Blocker for their courageous act yesterday but I am proud and pleased to report that these gentlemen have received the praise and recognition of the President of the United States. President Nixon today called both young men to the White House to express his appreciation.

We all have extremely busy schedules but no one can dispute that the President of the United States probably has heavier demands on his time than anyone in the world. That the President can take time from his day to show his personal appreciation to these two students I think is indicative of the recognition they deserve from all of us who are proud of their actions.

VIOLENCE AND TERROR MOUNT IN THE NATION'S PUBLIC HIGH SCHOOLS

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES
Wednesday, May 12, 1971

Mr. PUCINSKI. Mr. Speaker, the Wall Street Journal has performed a notable public service by calling national attention to the fact that outbreaks of violence—many of them deadly—are occurring with alarming frequency in our public high schools.

As chairman of the House Subcommittee on General Education, I am deeply concerned with this threatening practice. My subcommittee is holding hearings on this growing violence in our schools.

Mr. Jeffrey A. Tannenbaum, staff reporter of the Wall Street Journal, has provided invaluable information for our committee and for Congress in his article on student mayhem which appeared in the Wall Street Journal on May 11.

This is one of the finest examples of outstanding reporting that I have seen, but more important it puts into sharp focus one of the most serious problems confronting our Nation. I hope to bring to the House shortly meaningful legislation to help deal with this problem.

Mr. Tannenbaum's article follows:
[From the Wall Street Journal, May 11, 1971]
STUDENT MAYHEM: OUTBREAKS OF VIOLENCE, MANY OF THEM DEADLY, OCCUR AT MORE SCHOOLS

SHOOTINGS, STABBINGS PLAGUE JUNIOR AND SENIOR HIGHS, OFTEN OVER RACIAL FRICTION: HARD TO TEACH, HARD TO LEARN

(By Jeffrey A. Tannenbaum)

In a second-floor boys' washroom at Franklin D. Roosevelt Junior High School in Cleveland, four pupils recently cornered a 15-year-old classmate, Kenneth Wagner, and authorities say the foursome executed him by firing six rifle bullets into his head.

The reason, as far as authorities have been able to determine, was that young Ken Wagner had quarreled and fought with at least two of his alleged assailants. School principal Arnold A. Brown says one of the alleged attackers told him shortly after the shooting that "Wagner had it coming."

Inexplicable as that sort of reasoning might be, the slaying is but one example of a major development in hundreds of junior high and high schools across the country. Acts of violence—shootings, beatings, rapes and strong-arm robberies—are cropping up with unnerving frequency.

Sometimes, educators say, it's student against student. Sometimes it's student against teacher. In any case, it's violence on a scale and occurring with a frequency that educators say they haven't seen before. "The cases of violence used to be few and far between," says John E. Desmond, president of the Chicago Teachers Union. "But today the teacher's position is almost as hazardous as that of the policeman on the street."

A CRACK ON THE HEAD

That's an exaggeration—but not much of one. Consider, for instance, what happened recently at Nottingham High School in Syracuse, N.Y., when a fight between black and white students erupted in the school cafeteria. Vice principal Joe D. Woods says he was trying to restore order when "somebody behind me cracked me over the head with a chair." The blow sent him sprawling to the floor and left a gash that required four stitches to close.

Although the reliability of some statistics may be questioned because no uniform reporting procedures exist, almost all responsible authorities agree that violence in schools is rising and becoming more serious in nature. A study of 110 large urban school districts released early in 1970 by the Senate subcommittee on juvenile delinquency shows that pupil assaults on teachers rose to 1,801 in 1968 from 253 four years earlier. Pupil assaults on pupils during the same period rose to 4,267 from 1,601. More recent statistics aren't available, but talks with school officials in many cities indicate violence is rising at an even sharper rate now.

A New York City public school official says serious physical attacks on teachers last year jumped to 287 from 231 a year earlier and 193 five years earlier. Some incidents involved outsiders, including irate parents, but the official says most of the attacks were by pupils. In Portland, Ore., a public schools spokesman says pupil assaults on pupils jumped to 122 last year from 63 in 1968 and only 10 in 1965. This year, he adds, the number is leaping again.

THREATENING THE ABILITY TO EDUCATE

As a result of the growing violence, students in a number of cities face not only the increased possibility of being physically harmed in the public schools but also the near-certainty that the quality of their education will suffer. An atmosphere of violence, says Richard T. Frost, director of urban studies at Syracuse University Research Corp., which has studied violence in the schools for the U.S. Office of Education, "mortally threatens the capacity of some schools to educate anybody."

"My children are afraid to enter the washrooms now," says the mother of two pupils at Cleveland's Franklin D. Roosevelt Junior High, where Kenneth Wagner was slain. "My husband and I want our children to leave the school, but we're afraid if they go someplace else, it'll be the same thing."

Behind the mounting violence, the experts say, is a complex combination of factors. They include racial hostility, the presence of drugs in schools and an apparent inability of the existing educational system to cope with unusual situations, such as those involving a culturally deprived or emotionally

disturbed child. As tension increases, more and more students are showing up with lethal weapons.

Many educators contend that racial friction is the most common element in school violence. According to the National Association of Secondary School Principals, racial tension is greatest in schools with black student bodies and largely white teaching staffs.

FOUR SHOTS AT A COACH

That description fits almost perfectly Shaw High School in East Cleveland, a municipality adjacent to Cleveland's inner city. A few weeks ago, a 15-year-old black pupil at Shaw brought his father's pistol to school, apparently intending to shoot a teacher who had disciplined him for swearing. The boy failed to locate the teacher but loaned the gun to a classmate, also 15, who is charged with firing four shots in a hallway at Charles E. LeBel, the school's white football coach. Authorities say Mr. LeBel had angered the student a few days before when he confiscated a newspaper the boy had been reading in class. The shots narrowly missed Mr. LeBel.

Samson L. Freedman, a 54-year-old white ceramics teacher at Leeds Junior High School in Philadelphia, was slain recently, just outside the school, allegedly by a 14-year-old black pupil with a mail-order pistol. Police say the pupil was angry because Mr. Freedman had tried to have him punished for verbal abuse. Although some viewed the shooting as a tragedy in which race played at least a part, Meyer Berkowitz, the principal at Leeds Junior High, says he believes the slaying "wasn't a racial incident." He contends the pupil involved would have been equally willing to shoot a black teacher. A trial is pending.

Indeed, the role of race in violent outbreaks is difficult and often impossible to measure with any precision. And many authorities say that race is merely one element in a vastly more complex picture. An additional consideration that's frequently cited is the slum condition of many inner city neighborhoods where children are reared and where violence tends to crop up most often. Certainly racial hostility played no role in the killing of Kenneth Wagner at Franklin D. Roosevelt Junior High School in Cleveland, since all five students involved were black. (The four alleged attackers have been declared delinquent by juvenile court and put in a state correctional home.) Mr. Brown, the principal, attributes the incident more to the general atmosphere of strife and conflict in the low-income neighborhood around the school. After being told that "Wagner had it coming" by one of the boys involved, Mr. Brown recalls asking: "You mean this is the law of the jungle?" The reply, he says, was "Yeah, oh yeah. That's the way it is." He adds that the boy was "very matter of fact," no remorse, no nothing. They start out fighting from the cradle.

To a great extent, Mr. Brown and countless other school officials argue, more violence in the schools is a direct reflection of more violence in the community. And almost no one contends that things are improving very fast, especially when it comes to inner city neighborhoods. Kenneth Wagner's death, says David W. Whitehead, president of the Cleveland Teachers Union chapter at Franklin D. Roosevelt, was "the climaxing of a general trend. We sensed that something like this was going to happen."

PARENTS HAD FEARED TROUBLE

Apparently so had at least some parents. Three months before the slaying, a group of about 20 parents and teachers met at the school with Mr. Brown and a Board of Education official to demand improved security measures. They argued that better security was needed because during the two previous years, among a number of other incidents, one pupil had slashed another with a knife on the school steps, several girls had beaten

another girl on a nearby porch, a student had been shot in the chest when a gun went off accidentally during a class, and a pupil had threatened a teacher with a gun.

The presence of drugs in schools contributes to violence in various ways. Not long ago at George Washington High School in New York, for example, racial violence between blacks and Puerto Ricans was touched off when some girls robbed another girl at knifepoint to obtain money for drugs. In California, at San Fernando High School, principal Hugh F. Hodgins says a student "high on pills" recently touched off racial fighting between blacks and Mexican-Americans. Both the school in New York and the one in San Fernando were forced to close temporarily.

Authorities also say that rivalry between groups of students, long a factor in youthful violence, continues at a quickened pace and most serious level. "Youngsters often have to cross the turf of rival gangs to get to school," says Helen F. Faust, director of pupil personnel in Philadelphia. "Some parents are refusing to allow their children to come to school." The parents have ample reason to alarm, she says. In the three years 1968 through 1970, the city had 108 so-called youth gang killings, a dramatic increase over the 39 slayings in the previous three-year period. Partly because of mounting violence, says Miss Faust, almost 40% of Philadelphia's students are absent from certain schools on a normal day.

The problem of what to do with emotionally disturbed children is a particularly perplexing one for educators. James H. Misch, director of secondary schools in Cleveland, says school principals are forced to "dump their worst behavior problems onto one another" by transferring deprived or emotionally disturbed students to another school in the hope that the students will improve in a new environment. Kenneth Wagner, the youth who was killed in Cleveland, and two of the boys involved in the shooting, were "adjustment transfers." Mr. Misch says that in all of Northern Ohio there is only one 92-bed state facility for the intensive treatment of disturbed youths. "We have no place to send these children," he says.

AUTHORITARIANISM IS SCORED

School officials inclined toward strict discipline also get a share of the blame for rising violence, some experts contend. Dr. John P. Spiegel, a psychiatrist who directs the Lemberg Center for the Study of Violence at Brandeis University in Waltham, Mass., says the "authoritarian, very tight system of control in the public schools" is responsible for breeding much hostility. He adds that "society as a whole is undergoing rapid social change toward participatory democracy, and the schools have further to go than the rest of society."

All the violence, of course, is resulting in a school atmosphere in which it's more difficult to teach and more difficult to learn. Carmen W. Gagliardi, a seventh-grade counselor at Franklin D. Roosevelt in Cleveland, says the increasing number of incidents "adds to the anxiety of the children—they're always anticipating something's going to happen, and then they begin to fear getting into arguments and spats."

Ronald H. Jones, a veteran math teacher at Shaw High in East Cleveland, where football coach LeBel was shot at, says teachers are clearly more nervous. "There isn't one of my classes during the day now that I can carry on without an interruption of some kind," he says. One recent interruption, he adds, involved a ninth-grade girl who stood up during class with an eight-inch butcher knife in her hand and said: "I'm going to get you." Mr. Jones, 55, managed to disarm the girl.

While most serious violence now is confined to inner city schools in the Eastern U.S., there is clearly alarm among school officials

that the violence could soon spread to other cities, the suburbs and smaller towns. A school's spokesman in Portland, Ore., for instance, says that as yet weapons aren't a major problem in the assaults that have occurred there. But he adds that "all the trends in the Eastern schools get here eventually," and that already "there are rumors of guns for the first time."

Moreover, there are indications that even elementary schools may be in for trouble. Lula D. Wade, a community agent in a program sponsored by the Rockefeller Foundation to improve relations between parents and Cleveland school officials, says that "even elementary school children are carrying knives, they're carrying (brass) knuckles, they're carrying whatever weapons they can get."

In schools already hard-hit by violence, a number of steps are being taken to improve the situation. School security forces are being bolstered to help hold down vandalism as well as violence. In New York, where two teachers were raped recently—one by an unidentified assailant and one allegedly by a 15-year-old high school truant—50 men will soon be added to the system's force of 380. In 1968, New York had only 75 security men. In addition, school officials in some cities are searching student lockers for hidden weapons.

DISPERSED VENDING MACHINES

City police are also coming to the aid of schools in some cases. In Detroit, for example, 133 police have been directed to pay special attention to school grounds. Mounted on small motorscooters, they attempt to get to know as many students as possible. Elsewhere, officials are taking more subtle steps. At racially troubled Marlon Abramson High School in a fairly affluent section of New Orleans, soft drink machines have been dispersed to several locations instead of one to help prevent large gatherings of students.

Some schools are also reforming curricula to help dampen discontent. At University City High School, in the St. Louis area, a film that black students had objected to is no longer being shown; in addition, nine students now sit on an advisory panel on curriculum with an administrator and three teachers.

The problems have also drawn the attention of some legislators. Rep. Jonathan B. Bingham of New York has introduced a bill called the "Safe Schools Act of 1971," which would provide federal aid to help schools bolster security forces. Moreover, the U.S. Office of Education is funding a \$500,000 program at the newly established National Facility on School Crisis and Change at the University of Michigan. A primary aim is to train school administrators in "conflict resolution."

FIVE WISHES

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. BRINKLEY. Mr. Speaker, the following story is illustrative of the unselfish example which all of us should follow:

Miss Roxann Wheeler, age 8, recently came home from school and told her parents that if she could have five wishes, they would be:

First, I wish the war would stop!

Second, I wish there would be no more pollution.

Third, I wish people would stop using drugs.

Fourth, I wish there would be no hungry people in the world.

Then she paused for a moment and announced her fifth wish—

I wish we lived on a farm so I could have a horse!

Roxann is a third grade student at St. Agnes School in Alexandria, Va. She is the daughter of Mr. and Mrs. Larry M. Wheeler.

WHAT PRICE LOCKHEED?

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. HAMILTON. Mr. Speaker, the administration's request for authority to guarantee \$250 million in loans to the Lockheed Aircraft Corp., is to be presented to Congress today, Wednesday. In connection with that event, I would like to bring to the attention of my colleagues an article from the New York Times Magazine of May 9, 1971, entitled "What Price Lockheed?":

WHAT PRICE LOCKHEED?

(By Berkeley Rice)

Bankruptcy is not a nice word. Corporate executives shudder when they hear it, and public-relations men generally avoid the term regardless of how perilous the prospects of their employers. When bankruptcies do occur, they usually happen to relatively small companies as a result of either poor or corrupt management or because of a declining industry—shoe manufacturing, for instance—or a fragile and speculative one such as electronics.

During the last year, however, the financial world has been discussing the possible bankruptcy of Lockheed Aircraft Corporation, an enterprise so large that its collapse would be a national disaster. Because of the potential effects of such a development, the very threat of Lockheed's collapse has become its best hope for salvation.

For nearly a decade, Lockheed has been the largest defense contractor in the country. In dozens of plants spread through 26 states, its 75,000 employees turn out a variety of military hardware that produces about \$2-billion a year in sales. The Lockheed-Georgia Division alone is the largest industrial enterprise in the Southeast.

The failure of Lockheed would destroy this vast empire and cripple hundreds of the corporation's subcontractors, many of them major companies in their own right, as well as thousands of smaller businesses that supply them. Some of the nation's largest banks and several major airlines have hundreds of millions of dollars tied up in Lockheed and would suffer huge losses. The Pentagon would lose one of its principal suppliers of aircraft and strategic missiles. And for the Nixon Administration, the political and economic disaster would be a serious liability in the Presidential election next year.

For all these reasons, the Government simply cannot afford to let Lockheed go under; the company, the banks, the airlines, the unions and Congressmen whose districts include Lockheed plants needn't bother to put much "pressure" on the Administration to rescue Lockheed. (And, of course, the White House is undoubtedly aware that officers and directors of the company contributed at least \$38,880 to the Republican campaign during the last Presidential election.)

One of the chief reasons for the Government's commitment to Lockheed is that more than most major aerospace companies, it is almost completely dependent on the Government. Boeing, for example, remains in rela-

tively sound financial condition despite its loss of the S.S.T.; more than half of its revenues come from commercial sales. The Federal Government accounts for more than 90 per cent of Lockheed's business.

Lately, business has been poor. Lockheed suffered a net loss of \$32.6-million in 1969, compared to a profit of \$44.5-million the previous year. In 1970, writing off losses on several troubled programs, the company is estimated to have lost \$80-million more. The bankruptcy this year of Rolls-Royce, Ltd., which was to have produced the engines for Lockheed's new commercial plane, the Tri-Star, promises to make 1971 depressing, too. Reflecting these unhappy conditions, Lockheed stock has fallen from a 1967 high of nearly \$74 a share to a low of \$7 in 1970. Only part of this drop was caused by the general market decline, for while the rest of the market has climbed back to near-1969 levels, Lockheed continues to hover below \$15 a share. And as part of a Lockheed belt-tightening program, the company's chairman, Daniel Haughton, has cut his \$150,000 salary by 25 per cent.

To be fair, one should view Lockheed's troubles in the context of a general decline in the aerospace industry over the last few years. Total industry sales have fallen from nearly \$30 billion in 1968 to an estimated \$23.5-billion for 1971. Although the aerospace industry remains the country's largest manufacturing employer, the total number of jobs dropped from nearly 1.4 million in 1968 to about a million this year. In terms of employment, Lockheed has fared better than some of its competitors. While its payroll has dropped from nearly 100,000 to about 75,000 during the last three years, employment at Boeing plummeted during the same period from more than 100,000 to about 37,000.

The aerospace industry's main commercial customers, the nation's airlines, have taken a particularly bad beating lately, and conditions are unlikely to improve soon. The budget of NASA, another major buyer of aerospace hardware, has been cut back sharply in recent years. And the Defense Department, the industry's biggest customer (\$14.4-billion in 1970 sales), has cut its procurement budget from \$24-billion in 1968, at the height of the Vietnam war, to an estimated \$18-billion for 1972.

The principal causes of Lockheed's shaky financial state are the threat to the L-1011 TriStar, its major hope for a position in the commercial market, and a disastrous loss on its biggest military contract, the C-5A jet transport. The stories of these two projects provide a revealing view inside the aerospace industry. They show the interrelationship between defense and commercial business and how far the industry has moved from what its executives still proudly refer to as "the American free-enterprise system."

The C-5A is the largest military aircraft ever built—nearly a football field long and theoretically capable of prodigious feats in the way of transporting cargo. Although the Air Force has accepted delivery on at least 25 of the planes, however, they have yet to demonstrate fully some of their theoretical virtues. In fact, because of various "structural fatigue" problems, the C-5A's that are now "operational" are restricted to 80 per cent of their load capacity. Gen. George Brown, the head of the Air Force Systems Command, also conceded recently that there had been "some trouble in the maintenance area" and in the "reliability" of the C-5A, but he insisted: "We are working our way out of these problems."

In 1964, when the Pentagon decided to go ahead with plans for the C-5A, the field of prospective bidders quickly narrowed down to three companies: Lockheed, Boeing and Douglas (which later merged into McDonnell-Douglas, partly as a result of its having lost out on the C-5A contract). The winnowing process was quite natural. The contract was one of the largest in military history.

The awesome financial, physical and technological capabilities required to produce such a gigantic aircraft automatically eliminated all but a few of the largest companies. Of course this situation has an unhealthy effect on competition, for only companies that have previously held major defense contracts can afford to develop and maintain the facilities and personnel necessary to compete successfully for more of them. The list of the 10 largest defense contractors therefore varies little from one year to the next; Lockheed has been first or second on the list for the last decade.

In the case of the C-5A contract, as Fortune magazine pointed out, the bidders were "aware that the stakes were appreciably greater than the program itself. The winners could expect to get a corner on the commercial market for a plane that promises eventually to become a standard workhorse of the air-transport business." The winner, in effect, would be financed by the Defense Department while it developed the engineering and manufacturing experience to produce a potentially far more profitable commercial version.

Lockheed needed the C-5A contract much more than either Boeing or Douglas. Lockheed-Georgia, the division that builds Lockheed's military aircraft, was nearing the end of production on the C-141 Starlifter, the predecessor to the C-5A, and there were no other major contracts in sight. Under such pressures, Lockheed submitted the low bid of \$1.9-billion for the C-5A airframe-assembly contract. Boeing was high with a bid of \$2.3-billion. Since Boeing executives later conceded that even their bid was a trifle "optimistic," and since the Air Force itself had been estimating the cost of the work at \$2.2-billion, many Pentagon officials and Congressional critics contend that Lockheed deliberately tried to "buy in" with an unreasonably low bid, assuming that later contract changes would boost the final price enough to provide a comfortable margin of profit. (There is considerable precedent for such an assumption. A recent check by the General Accounting Office of 38 major defense contracts found current cost estimates to be 50 per cent higher than the original contract figures—a total price increase of \$20-billion.)

Robert Charles, the Assistant Secretary of the Air Force in charge of the C-5A contract when the bids were received, later conceded that "practically everyone thought that the bid was lower than the actual costs would be. But you can't be sure of this. When you have responsible companies like Lockheed, Boeing and Douglas bidding, what do you do? Do you go back and say, 'Your price is too low?' I don't think so. They're big boys." In 1969, testifying before the House Armed Services committee, Lockheed's board chairman, Houghton, insisted: "I sincerely felt we could design and build the plane at the price we quoted." If one accepts Mr. Houghton's sincerity one can conclude only that he and his colleagues made an astounding error in their C-5A bid—as astounding as that of the Air Force officials who accepted it.

Despite Lockheed's low bid, the Air Force's Source Selection Board chose the Boeing proposal, mainly on the basis of design superiority. The board feared that Lockheed's design would cause schedule delays and cost increases. But when word of the board's decision leaked out, Lockheed and its friends in Congress put pressure on the Johnson Administration to reverse it. Two of the company's best friends were the late Richard Russell of Georgia, then chairman of the Senate Appropriations Committee, and the late L. Mendel Rivers of South Carolina, chairman of the House Armed Services Committee. River's friendship was, perhaps, cemented about this time when Lockheed announced plans to build a subassembly plant in his home town, Charleston. Whether or

not such friendship proved influential, top Pentagon officials overruled the Source Selection Board and awarded the C-5A contract to Lockheed. They based their decision in part upon Lockheed's previously excellent record in producing military cargo aircraft, and upon the now-embarrassing grounds that the company's low bid promised "substantial savings to the Government."

In 1966, soon after work began on the C-5A at Lockheed-Georgia, costs started running over budget because of the very design and engineering problems that had worried the Source Selection Board. Lockheed officials contended that the problems were the result of work that advanced the "state-of-the-art," though in awarding the contract the Pentagon had specifically maintained that the job would not involve any major technological advances.

The cost "overrun" on the C-5A continued to increase during 1966 and 1967. From time to time Lockheed would request "additional funding" from the Air Force, the Air Force would revise the C-5A budget and the overruns would disappear. Lockheed often helped them disappear. The Assistant Secretary of the Air Force for Financial Management during that period complained of a "visibility" problem on C-5A costs: "It appears that Lockheed is holding back full disclosure of the information generated by their own systems." Lockheed officials strenuously deny having concealed any information on C-5A cost problems, but several stockholder suits brought against the company make the same accusation.

A few Air Force officers tried without success to call attention to the growing overrun. One of them was transferred to Vietnam, another was suddenly found qualified to become air attaché to the U.S. Embassy in Addis Ababa. In November, 1968, long frustrated by the apparent unwillingness of his superiors to try to hold costs down on the C-5A, Ernest Fitzgerald, an Air Force civilian cost-control expert, disclosed before Senator William Proxmire's Subcommittee on Economy in Government that the program would cost more than \$5-billion—\$2-billion more than the official Air Force estimates at the time. For his audacity, Fitzgerald was stripped of most of his duties and later fired.

Because of the program's mounting cost and growing Congressional criticism of the overrun, the Pentagon announced in the fall of 1969 that the C-5A program would be "cut back" from 115 planes to 81, thereby "saving" more than a billion dollars. By then, however, it was clear that even the 81 planes would cost far more than the original estimate for all 115. Lockheed protested the cutback, charging that the Air Force had exercised its option to buy all 115 planes. The dispute went to the Armed Services Board of Contract Appeals for settlement, a process that threatened to take several years. To ease the effect of the cutback, the Pentagon agreed to a "stretch-out" of the C-5A program, allowing Lockheed to produce two planes a month instead of three. The stretch-out meant a year's delay in delivery and added at least \$75-million to the cost of the program.

Behind the mounting costs and schedule delays plaguing Lockheed were a number of "unforeseen technical difficulties" on the C-5A. Several of the plane's complex systems were performing with "lower than desired reliability," as one Air Force general put it, and there were "structural fatigue problems," such as cracks that developed in the wing. Lockheed and the Air Force quickly designed a "wing fix" that would supposedly solve this problem, though the "fix" has been having a cost overrun of its own. In January, 1970, the Air Force put the figure for correcting the wing problem at \$6.5-million for all 81 planes. Six months later the figure was \$15-million. Last February, Aerospace Daily estimated that the cost of all the wing fixes would come to \$28-million.

To cover Lockheed's expenses on the C-5A program, the Air Force made regular "progress payments," weekly checks that amounted to more than 90 per cent of the company's current outlays. In addition, the company received a number of special "milestone payments," or bonuses, though the program was far behind schedule. The progress and milestone payments and the fact that much of the plant and machinery at Lockheed-Georgia are owned by the Defense Department mean that most of the investment for the C-5A program was being made by the Government. Had it not been for the cost overrun, Lockheed would have needed very little money of its own. (When defense contractors complain that they are making only a pitiful 2 to 4 per cent profit on their military contracts, they usually fail to point out that these figures are computed as a percentage of sales or costs. When computed on the basis of the company's own capital investment, profits range from 20 to 50 per cent, far more than those of non-defense manufacturers.)

Because of the growing cost overrun, Lockheed began to run out of funds to keep the C-5A program going. Estimates of the company's potential loss on the project ranged as high as \$675-million. Lockheed blamed inflation for more than \$500-million of the C-5A's cost "growth," although the contract specifically allowed for \$300-million worth of inflation over the course of the program.

Lockheed was also in serious financial trouble on three other military contracts: the Army's Cheyenne helicopter, a new short-range attack missile, or SRAM, and nine ships for the Navy. Lockheed officials said most of their troubles resulted from inflation, technical problems and restrictions in the contracts for the C-5A and these other programs, but critics attributed the company's difficulties to mismanagement and inefficiency. Fortune commented: "Any company that can lose huge sums on four defense contracts at the same time must be doing something wrong."

In March 1970, on stationery bearing the legend "Look to Lockheed for Leadership," Houghton, the company's chairman, wrote to the Pentagon requesting an additional \$435-million to \$500-million to cover expenses on the C-5A program. Houghton said Lockheed could not afford to wait for the board of appeals to settle the contract dispute; unless the company received the additional funds it would have to halt production on the C-5A. This would have left the Air Force with only nine still-defective planes—the rest were in what a company official referred to as "large bits and pieces." Houghton's message was perfectly clear: Pay up or lose the C-5A.

Congressional critics were outraged by Lockheed's demand. Representative Otis Pike, the New York Democrat, called it "defense blackmail." Representative William Moorhead, the Pennsylvania Democrat, compared the company's threat to that of "an 80-ton dinosaur who comes to your door and says, 'If you don't feed me I will die. And what are you going to do with 80 tons of dead stinking dinosaur in your yard?'"

After trying unsuccessfully to arrange additional bank loans for Lockheed, Deputy Secretary of Defense David Packard went to Congress for the money. Stressing "the need to preserve this important capability which Lockheed has provided over many years," he asked Congress to authorize a special \$200-million "contingency" fund to keep the C-5A program going until a settlement could be reached. (As a point of reference, \$200-million is more than the Federal Government spent on all urban transit programs in 1970.) Over the objections of Senators Proxmire and Richard Schweiker, the Republican from Pennsylvania, and Representatives Pike and Moorhead, the measure passed easily, becoming known on Capitol Hill as "Lockheed's slush fund."

In urging Congressional support for the rescue plan, Defense officials contended that Lockheed would go bankrupt without the extra money. Since Lockheed produces the Polaris and Poseidon missiles and dozens of other supposedly essential weapons systems, its collapse, they argued, would dangerously weaken the nation's defense. A few officials disagreed with this analysis. Gordon Rule, the Navy's top civilian contract expert, told a House subcommittee: "If defense contractors can't hack it, they ought to be terminated for default. If they lose money and go bankrupt, let them do it. Maybe a couple of bankruptcies and defaults in the industry [will] do them good."

During the Congressional investigation, there were occasional hints that Lockheed's cash shortage was not the result of the C-5A project alone. Some of those C-5A progress payments may have been siphoned off to cover the development costs of the L-1011 Tristar, the commercial passenger liner. (Although the C-5A was built by Lockheed-Georgia, Government accountants estimate that \$181-million in C-5A costs were charged by the company to Lockheed-California, the division responsible for the L-1011.)

Senator Proxmire became convinced that Lockheed's problem was caused by "its commercial venture, the L-1011 aircraft, and not by its Government contracts." Proxmire asked the Pentagon for a "cash-flow analysis" of Lockheed, a standard accounting report usually required for any major commercial loan to a company. The Pentagon replied that it did not have such an analysis, but that one would be prepared and sent to Proxmire. A few weeks later, the Pentagon informed Proxmire that it would not give him a cash-flow analysis, after all, because Lockheed considered much of the data "proprietary" information. "This makes no sense to me," said the astonished Proxmire. "Here they are asking us for [\$500-million] . . . and they would not give us cash-flow data which any competent banker would insist on before he makes a loan of a million or two million dollars to a corporation."

Proxmire also discovered that some of the facilities being used in the development and testing of the L-1011 at Lockheed's Palmdale, Calif., plant were owned by the Air Force and leased to Lockheed under an arrangement he described as "a sweetheart contract." He charged this "reinforces the appearance of a sustained effort on the part of the Air Force to assist the commercial activities of one of its major contractors."

At one point during a House Armed Services subcommittee hearing, Lieut. Gen. Otto Glasser, Deputy Chief of Staff for Air Force Research and Development, made the relationship between the C-5A and the L-1011 as clear as his position would allow. When Representative Pike said, "The Lockheed problem is essentially a C-5A problem, as far as money is concerned," General Glasser stopped him: "No, Sir. If I may say, Sir, that is only about half the problem." Pike said he realized that Lockheed was involved in other defense projects, "but the money is in the C-5A."

GLASSER. "And the 1011, Sir, if I may."

PIKE. "Well, yes, but that is one you don't have jurisdiction over."

GLASSER. "No, but that does cause the problem on a corporate basis."

PIKE. "All right. I hope you are not asking Congress to bail them out because the 1011 is causing problems to the corporation."

GLASSER. "We won't be asking the Congress to bail them out in any event, but I am saying that the financial straits the company finds itself in are in a major way aggravated by the 1011 problem."

General Glasser was wrong on one point. The Pentagon is indeed asking Congress to bail Lockheed out, and the way in which the "1011 problem" is aggravating the company's financial condition tells a great deal about

the symbiotic relationship between the defense and commercial projects of the major aerospace firms.

To those in the aircraft industry, news of Lockheed's trouble with the L-1011 Tri-Star had special significance, for they realized how crucial the plane is to the company's future in commercial aviation. Since its Constellations were phased out by the airlines at the end of the nineteen-fifties, Lockheed has not had a major entry in the commercial aircraft market. In the late fifties, guessing that the airlines were not ready for a plunge into straight-jet aircraft, Lockheed executives decided to build the turboprop Electra. They had guessed wrong. The airlines began ordering pure-jet 707's from Boeing and DC-8's from Douglas.

About that time, Lockheed also developed the C-130 Hercules, a highly dependable and versatile military cargo plane that has been the company's bread-and-butter product for more than a decade and is still being used effectively in Vietnam. The Defense Department has bought more than 1,000 "Herky Birds" at an average price of \$2.3-million (less than 5 per cent of the current cost estimate for each C-5A). Because of its special virtues as a military plane, however, the C-130 never appealed to commercial airlines; few of them use short dirt runways like Khesanh, and they rarely need to unload while taxing or drop cargo by parachute.

As a successor to the C-130, the Pentagon asked in 1960 for a bigger pure-jet air freighter. This time, all the aircraft manufacturers assumed that such a plane could easily be modified to satisfy commercial requirements. Lockheed won the contract and built its C-141 Starlifter, but somehow things went wrong. The company sold 284 of the planes to the Defense Department, but none to the airlines. By then Boeing and Douglas had designed cheaper cargo versions of their biggest passenger jets.

When Lockheed won the C-5A contract in 1965, people in the industry felt this would finally give the company an opportunity to break into the commercial market; again, things haven't worked out that way. Boeing modified the design it had submitted for the C-5A competition, raised sufficient private capital and produced its highly successful 747, which controls the market for intercontinental jet passenger planes. Boeing has also designed and is taking orders for a cargo version of the 747—which, interestingly enough, will be priced at about \$23-million, almost exactly the contract price for the very similar C-5A, the estimated price of which has by now grown to \$60-million. This has dimmed Lockheed's hopes of selling the L-500, a commercial cargo version of the C-5A.

Based in part upon the technology and manufacturing techniques developed for the C-5A, Lockheed began planning the L-1011, a wide-bodied, medium-range trijet passenger liner for which the potential market could be enormous. Some trade sources estimate that as many as 1,500 of these 250- to 350-seat "jumbo jets" will be sold in the next 10 years for a total of nearly \$20-billion. There is only one problem in this otherwise bright picture for Lockheed: McDonnell-Douglas has also designed a wide-bodied, medium-range trijet passenger liner, the DC-10, quite similar in size and performance to the L-1011.

Partly because of the competition from McDonnell-Douglas, orders and options for the L-1011 did not come in early enough or fast enough to cover Lockheed's development and "start-up" costs on the project, estimated at about \$500-million. For this reason and because the C-5A cost problems left the company with no spare cash, Lockheed arranged in the summer of 1969 for a \$400-million loan from a 24-bank consortium led by Bankers Trust and Bank of America. By March, 1970, when the C-5A crisis reached its peak, Lockheed had drawn nearly \$300-million

on this line of credit and was still desperately short of cash.

Deputy Secretary of Defense Packard met with the bankers and asked them to extend further credit to help cover the costs of the C-5A program. The bankers agreed, on the condition that the Pentagon persuade Congress to supply the \$200-million C-5A contingency fund. When Congress complied, the banks agreed to lend Lockheed \$150-million more, on the condition that the Pentagon quickly arrange a "satisfactory" settlement to the C-5A contract dispute. This arrangement would also include \$100-million in "accelerated advance payments" by Lockheed's three major customers for the L-1011: Trans World Airlines, Eastern and Delta. The airlines had already sunk considerable sums into the L-1011 as down payments, and they did not want to see their investment lost through the collapse of Lockheed as a result of its troubles with the C-5A.

By September, 1970, when both Lockheed and McDonnell-Douglas had "rolled out" their first test models of the airbus, McDonnell-Douglas had orders and options on 241 planes, worth \$3.6-billion; and Lockheed had 173, worth \$2.6-billion. (The figures have not changed substantially in the last eight months.) Neither company will estimate its break-even number, but industry sources generally put it at 200 to 225. That means McDonnell-Douglas can confidently go into production, while Lockheed is still gambling on additional orders.

One reason McDonnell-Douglas is winning the sales battle is that it chose General Electric to make the DC-10's engines. With tremendous financial resources of its own, G.E. has been able to help DC-10 buyers finance their orders. Lockheed picked Rolls-Royce, and, of course, that choice was unfortunate.

While Rolls has earned worldwide renown for its automobiles, 80 per cent of its sales in recent years have come from its aeroengines division. When it won the \$489-million contract for the L-1011 engines, one British paper hailed the deal as "the most succulent plum in commercial-aviation history." The plum soon began to taste bitter as Rolls executives discovered that they had grossly underestimated the technical problems involved in the development of the engines for the L-1011. As the problems increased, so did costs, far beyond expectation. The British Government put up \$161-million in development funds and guaranteed commercial loans to Rolls, but there simply wasn't enough money. Rolls tried to get help from Lockheed, but that company was hardly in a position to help anyone else.

The 540 engines Rolls had agreed to supply at a fixed price of \$840,000 each were going to cost more than \$1.1-million each to produce. With the British Government unwilling to put up more funds, the company would be losing \$264,000 on every engine it built. Last February, the Rolls Royce directors decided to declare bankruptcy.

The collapse of Rolls-Royce came as a severe blow to British pride and the British economy. It also threatened to bring down Lockheed's already fragile house of cards. The first 10 L-1011's were due for delivery in the fall of 1971, but suddenly there were no engines for them. Lockheed checked on the possibility of substitute engines from General Electric and Pratt & Whitney (which makes the engines for Boeing's 747), both of which had competed against Rolls for the L-1011 contract. Each company seemed eager to recapture the contract, but their engines would have several drawbacks for Lockheed: they would cost at least \$100,000 more than the Rolls contract price; they would weigh a good deal more than the Rolls engines; they would require an estimated \$100-million worth of retooling on the L-1011; they would cause a delivery delay of at least six months, and probably closer to a year. Part of the added cost resulting from these problems

would have to be passed on to the airlines, putting Lockheed at an even greater disadvantage in its race against McDonnell-Douglas.

Lockheed soon decided that its best hope lay in trying to salvage the Rolls contract, and for the next few weeks Lockheed executives and British officials shuttled from Los Angeles to New York to London in a delicate minuet of financial and diplomatic negotiation. The United States Government also took part in the discussions; at various times the meetings included Deputy Secretary of Defense Packard, Treasury Secretary John Connally, Civil Aeronautics Board Chairman Secor Browne and a Federal Reserve Board member, Andrew Brimmer. The reason for all this concern was the fear that a collapse of the L-1011 program would force the bankruptcy of Lockheed, which in turn would have immense repercussions on the Defense Department, the aerospace industry and the American economy. Lockheed, its banks, the airlines and the L-1011 subcontractors have an investment of about \$1.2-billion tied up in the project, along with 30,000 workers. The 30 major subcontractors alone, including such companies as AVCO, Sperry Rand and United Aircraft, have \$150-million in the program.

While the Lockheed-Rolls British talks were going on, Lockheed officials also met frequently with the banks and airlines involved in the L-1011, asking for time to settle the engine issue and additional funds to finance the unavoidable extra cost of such a settlement. The banks were beginning to worry about the security of their loans to Lockheed, which had already borrowed \$350-million and would probably need \$250-million more to complete production on the TriStar. The airlines by then had given Lockheed \$200-million in down payments, and some were beginning to wonder about cutting their losses rather than throwing more money into what was starting to look like a dubious project. However, T.W.A., which had a net loss of \$69-million last year, could hardly afford to kiss away the nearly \$100-million it has reportedly paid thus far on the TriStars it has ordered.

Lockheed's Houghton tried to persuade the British Government to put up enough additional money to enable Rolls to produce the engines, but there was considerable difference of opinion over just how much this would involve. Lockheed estimated the project would require \$144-million more for development costs. A team of British experts put the cost at twice that figure. When the British offered to put up the \$144-million if Lockheed would agree to pay any costs above that, Lockheed became less certain of the accuracy of its estimate and declined. The British negotiators placed several conditions on any further investment: the price of the engines would have to be renegotiated up to \$1.2-million each; Lockheed would have to waive penalties for late delivery, and the company would have to guarantee repayment of any additional funds invested by the British Government in case the L-1011 program collapsed. Commenting on this proposal, Houghton told reporters he had hoped for a "much more generous proposition." Asked if Lockheed could guarantee production of the TriStar, he snapped: "I can't sit here and guarantee that things will or will not happen." As for guaranteeing the British investment in the Rolls engine, he would say only, "I don't have anybody to give me such a guarantee."

Throughout the negotiations Lockheed officials complained that they had been put in an impossible bargaining position by the Rolls bankruptcy because they had to have engines. Privately, they accused the British of, in effect, blackmailing them into renegotiating the contract on unfavorable terms. These complaints provided ironic amusement for those who recalled that only a year before

Lockheed had demanded additional funds from the Pentagon for the C-5A, using a thinly veiled threat that without the extra money it would cease production on the planes.

By early April, Lockheed and the British Government had agreed on a tentative settlement that would enable a new Government-run Rolls-Royce (1971) Ltd. to produce the TriStar engines. The arrangement would boost the cost of each plane by more than \$1-million, with Lockheed and its airline customers each absorbing part of it and the banks—counting on Washington to guarantee the loans—extending additional credit to Lockheed. Unless it can find some other method, the Administration will have to get Congressional approval to guarantee the loans—and very soon, for time and money are running short. The banks are waiting; the airlines are waiting; Lockheed and its subcontractors are waiting, and the British Government is growing impatient about spending \$3-million a week to keep the Rolls engine program going until the final decision is made.

The principal hitch at this point is the possibility that Congress won't go along with it. The Administration apparently thinks that after the cancellation of the S.S.T. most legislators will not cast another vote against the troubled aerospace industry. The Nixon men will argue that a vote against the S.S.T. did not destroy Boeing, but a vote against a loan guarantee could mean the end of the TriStar and Lockheed. While this line of reasoning has won the support of such customary defenders of the Pentagon as Senator Barry Goldwater, it has also moved some less likely prospects—for instance, Senator Hubert Humphrey, who voted against the S.S.T. "The Lockheed complex has served this country well," says Humphrey, "and I don't think we should let it go down the drain."

A number of influential Congressmen—among them Wright Patman, the Texas Democrat who heads the House Banking Committee—have announced their opposition to any Government-backed loan for Lockheed. Calling the proposal a "ballout" and "one step away from an outright subsidy," Senator Proxmire argued: "The Government has no business forcing the [TriStar] on the market." Senate Majority Leader Mike Mansfield agrees. Telling reporters that there had been too much bad management at Lockheed, he stated: "I don't think we ought to pick up the tab for any more than we have."

Whether they know about it or not, the taxpayers are also going to be bailing out the C-5A program. After repeatedly rejecting the Pentagon's proposal for a settlement on the ground that it offered too little, Lockheed finally accepted it, curiously enough, on Feb. 1, 1971, just three days before the collapse of Rolls-Royce, which supposedly came as "a complete surprise." Under the terms of this settlement the Pentagon will pay \$758-million in disputed costs on the C-5A. Lockheed will accept a \$200-million loss on the program, swallowing half of it at once, and repaying the other \$100-million to the Government, beginning in 1974, at a rate of \$10-million a year. To most observers this seemed a strikingly generous offer by the Pentagon, but after all, the Pentagon is not spending its own money. It is the public that will have to pick up the tab for nearly three-quarters of a billion dollars to save the C-5A. The Pentagon's fiscal 1972 budget request, now before Congress, contains \$383-million for the C-5A, most of which is needed to cover "unfunded deficiencies" from prior years.

Since Congress has authorized the purchase of all 81 C-5A's, the Pentagon need only "advise" the appropriate committees of the terms. While the terms do not mention the L-1011 TriStar, knowledgeable Congressmen realize that the fortunes of the two

programs are interdependent, and that the C-5A settlement is obviously part of the over-all Government plan to rescue Lockheed.

Under pressure from Proxmire and others, the General Accounting Office has recently tried to study the financing of the C-5A program. Though the G.A.O. is legally empowered to investigate and report to Congress on any expenditure of public funds, the military has effectively blocked the study. At first, the Pentagon refused to cooperate at all. It has since agreed to allow a limited "review" of its records on the C-5A, but—because of the "extremely sensitive nature" of the program—it will not permit the G.A.O. to remove the records, to copy any figures from them or to report any figures to Congress.

The whole Lockheed mess seems like a good argument for John Kenneth Galbraith's half-serious proposal to nationalize the major defense contractors. The Government could easily take over Lockheed completely, since it is essentially the company's only customer and must come to its aid even when it tries to launch a commercial project. As Ernest Fitzgerald, now a consultant to Senator Proxmire's subcommittee, recently said: "When things are going well, the companies stress the idea of free enterprise, with no need for Government regulation. But when things aren't going well, they suddenly become a close partner with the Government and want it to bail them out. All they have to do is threaten to collapse and the Government pours in more money. The only thing unusual about this whole Lockheed situation is that it has become public."

STANDARDS SET BY 1970 CLEAN AIR ACT

HON. WILLIAM J. KEATING
OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. KEATING. Mr. Speaker, Mr. William Ruckelshaus, director of the Environmental Protection Agency, recently discussed the progress that is being made with the standards set by the 1970 Clean Air Act.

We, in Cincinnati, are proud of our efforts to improve the quality of life for our citizens and am pleased to bring an article from Time Magazine to the attention of my colleagues:

The article follows:

BLUEPRINT FOR BREATHING

The 1970 Clean Air Act was no mere plety. It ordered William Ruckelshaus, as head of the Environmental Protection Agency, to propose a set of national air-quality standards, and within 90 days to determine the final ones. Now Ruckelshaus has done just that, despite protests from the Automobile Manufacturers Association, which calls his rules "disproportionate to any demonstrated health and safety need."

The rules affect two main sources of air pollution:

Autos emit the bulk of carbon monoxide and hydrocarbons. Under the new rules, clean air means a maximum nine parts of CO per million parts of air during an eight-hour period. Hydrocarbons are limited to .24 p.p.m. for a maximum of three hours.

Industry emits most sulfur oxides and particulates (soot, fly ash, heavy metals). Clean air now means a maximum 80 micrograms of sulfur oxides per cubic meter of air and 75 micrograms p.c.m. of particulates as an annual mean. Both sources emit about the

same amounts of nitrogen oxides, which the rules now limit to .05 p.p.m. of air. Both also contribute to photochemical oxidants, which are formed by the action of sunlight on hydrocarbons and nitrogen oxidants. The new rules limit photochemical oxidants to .08 p.p.m. of air. All this could sharply reduce present levels of air pollution. CO levels in cities (now 25 to 40 p.p.m.), for example, would be lowered to nine p.p.m.

According to the law, the states have until 1972 to present plans for compliance, and if accepted by the EPA, they have until 1975 to carry them out. Auto manufacturers have until 1975 to reduce 1970-level emissions by 90%. Last week they told Ruckelshaus that no matter how much Government pressure is exerted, Detroit will be unable to meet the 1975 deadline.

Among cities where sufficient data are available to make predictions, admits Ruckelshaus, only Cincinnati "could come close" to meeting the federal carbon monoxide deadline—providing automakers meet their own deadline. To reduce particulate and sulfur oxide emissions to required levels, big cities like New York would have to vastly increase their use of low-polluting natural gas, which is already in short supply. Most cities would also have to cut or even ban peak-hour auto commuting—and make up for it by building new, nonpolluting rapid transit systems. Unfortunately, the Government is unlikely to share the cities' staggering costs. Nixon's budget request for the Urban Mass Transportation Administration was \$400 million, \$200 million less than the amount authorized by Congress. The upshot is that few Ruckelshaus standards will be met on time. Yet some of them will be, which is the whole point of the exercise. Even if only in theory, the U.S. can now draw a clear line between clean air and dirty air.

TAKING THE POLICE STATE OUT OF THE STATE DEPARTMENT—EXHAUSTIVE OVERHAUL URGENT

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. ASHBROOK. Mr. Speaker, two recent articles by veteran Washington reporters point up the urgent necessity for an exhaustive overhaul of the machinery, policies, and personnel of the U.S. Department of State. Regardless of which major party, Democrat or Republican, is in power, State goes its free-wheeling, unrestricted way for the most part, its abuses and inadequacies sheltered from public view.

On April 12, 1971, when Charles W. Thomas, a former Foreign Service Officer, committed suicide, we were again reminded of the vicious nature of bureaucratic vendettas against faithful employees of that Department. Proposals suggesting review of State Department operations bring forth charges of "witch-hunting" and "Red-baiting" from some circles, and this might well be part of the explanation as to why this Department has become an "untouchable" in Federal circles.

The tragic case of FSO Thomas is but the latest in a series of cases in which qualified, hard-working Federal servants have experienced a little-mentioned type of subversion—expulsion for faithful service by biased official cliques. One

need but mention the case of a faithful and qualified civil servant, the former security officer, Otto F. Otepka. As pointed out in the following articles, the cases of Stephen Koczak and John Hemenway are two of the more publicized cases similar in some aspects to that of Mr. Otepka.

The first of the two items mentioned above is an April 29, 1971, column by Willard Edwards of the Chicago Tribune who has viewed the Washington scene for many years. He tells of the latest State Department chicanery in the case of John D. Hemenway. The second item is an extensive article by veteran investigative reporter and Pulitzer-prize winner, Clark Mollenhoff, who until fairly recently was on President Nixon's White House staff. His account of the depressing Thomas affair appeared in the May 15 issue of Human Events, the Washington news-weekly which has long been concerned about the situation at the State Department. The two items follow:

[From the Chicago Tribune, Apr. 29, 1971]

HEMENWAY FIGHTS TO CLEAR RECORD

(By Willard Edwards)

WASHINGTON.—What is the State Department hiding in the case of John D. Hemenway, the distinguished Foreign Service officer fired by Secretary of State Dean Rusk only three days before Rusk left office in 1969?

That question hovers like a cloud over hearings, five in number thus far over a six-week period, conducted in virtual secrecy by a quasi-judicial State Department grievance board.

The three-member board has been repeatedly repulsed in efforts to gain access to State Department records vital to its inquiry.

The board, headed by Paul A. Toussant, was set up to consider Hemenway's charges that he was dismissed on the basis of false and malicious accusations. The real reason for discharge, he said, was that he differed with some of his superiors on policy issues related to dealing with Communist nations.

Altho Hemenway, an acknowledged authority on Russian and German affairs, was given another post by the Nixon administration in the Pentagon's Office of International Security, he demanded his right, under Foreign Service regulations, to seek removal from his State Department file of the falsehoods he said were placed there to justify his dismissal.

He named Alfred Puhon, the present ambassador to Hungary, and Alexander Johnpoll, the consul general at Hamburg, Germany, as authors of "lies and distortions" in the record.

The key document, essential to the board's inquiry, is the report of two ambassadors, appointed by Rusk to investigate Hemenway's claim that he had been treated unjustly. After a speedy scrutiny of the evidence, based mainly on questioning of Puhon and Johnpoll, the two diplomats reported to Rusk that they could find no impropriety in Hemenway's discharge. Their report reached this extraordinary conclusion:

"While we are not qualified to evaluate the charges [raised by Hemenway] or the rebuttal [by Puhon and Johnpoll], we find the latter prima facie persuasive."

The grievance board, including Toussant and Philip N. Burris, State Department veterans, and Gen. Richard C. Hagan, former judge advocate general of the Air Force, unanimously agreed that examination of this report was imperative.

They were flabbergasted by the State Department's refusal to surrender the document.

"They keep telling me it is an internal

document and the property of Mr. Rusk," Toussant reported. "The department's refusal is arbitrary. I don't see how we can rule without seeing it."

Hemenway's attorney, William R. Joyce, asserted the State Department had no legal justification to withhold the report.

The Supreme Court in 1957, he recalled, had, in a case involving Communist Party members under examination by the Subversive Activities Control Board, directed the Federal Bureau of Investigation to hand over all its classified memoranda to the defendants.

"If a member of the Communist Party is entitled to see FBI reports, certainly a Foreign Service Officer is entitled to see what the secretary of state has received against him," he argued.

The board agreed. It was obviously angry and disturbed. Hagan told the chairman that, "as men of justice and honor," the board could not long tolerate the State Department's attitude.

STATE DEPARTMENT BUREAUCRATS STILL RIDE ROUGHSHOD—CHARLES THOMAS CASE FOLLOWS ON HEELS OF OTEPKA AND HEMENWAY OUSTERS

(By Clark Mollenhoff)

The personnel file of Charles W. Thomas bulks large with tributes to his brilliance as a hard-working Foreign Service officer who worked "within the system" and in the end he demonstrated that he knew how to beat the brutal, mediocre bureaucrats and petty politicians who run the Foreign Service System.

At 4 p.m. on April 12, 1971, Thomas shot himself.

Within the system, Charles Thomas, dead, was worth a pension of \$5,500 a year to support his wife Cynthia and their two children. As a 48-year-old Class 4 Foreign Service officer, Thomas had 12 more years before he could have started to collect on the annuity that did not mature until age 60.

Alive, Thomas could withdraw only the accumulated \$10,000 in the Foreign Service annuity fund and he had already borrowed far in excess of that in his two-year effort to shift from the Foreign Service to another career.

An hour before he took his life, he told his wife he had decided to withdraw the money for another try at making the transition to private life. He felt it would take three years to establish a law practice. But, sometime between 3 and 4 p.m., Thomas had concluded that drawing the \$10,000 out of the annuity fund would leave his family without protection.

He was another victim of the "select out system" in the Foreign Service that is weeding out many of the most capable officers while permitting some of the deadwood to remain on top in a structure that demands conformity.

Thomas' background made him too well qualified for most jobs and in those jobs where his qualifications were desired there was apparently a lingering question about why he was being dropped.

There had been some moments of discouragement in writing hundreds of letters of application for jobs up to and including that of executive secretary to the secretary of state, a job that those who knew him said he was well qualified to do. In his last week of struggling as public defender of the indigent at \$7.50 when employed, he had considered taking a night waiter job. Two nights before his death, his wife had tried her hand at cooking for a party.

The morning of the day Thomas shot himself, he had received three rejection letters to add to the nearly 2,000 he had accumulated in less than three years. The last rejection came from a Capitol Hill staff job where a decision had been made to hire a "younger man."

He had been counting on Congress, but, "I've exhausted my contacts in Congress," he told his wife shortly before noon. He did not say it dependently, for that was not his way, but he was simply accepting the fact he would have to turn elsewhere for a job.

Thomas had known adversity in his earlier years. He was born to poor parents in Orange, Tex., and by age four was an orphan living in the home of a sister in Fort Wayne, Ind. But he also had the success which comes through hard work, careful planning and education.

For 46 of his 48 years Thomas was another Horatio Alger. A member of the National Honor Society, he stood fourth in academic standing and was president of his class at North Side High School in Fort Wayne. He was selected an alternate for appointment to the military academy at West Point.

Instead, he graduated with a B.S. in economics and government from Northwestern University in Evanston, supplementing a scholarship by working as a busboy, janitor and farm worker.

After serving as a Navy fighter pilot in World War II, Thomas returned to Northwestern University Law School in Chicago again on a scholarship and received an LL.B. degree. Later he earned a doctorate in international law and international relations from the University of Paris.

He was fluent in French and Spanish and had an elementary working knowledge of German, Italian and Portuguese. He had been admitted to the practice of law before the bar in Illinois, the District of Columbia and the United States Supreme Court.

From the time he entered the Foreign Service in 1951, Thomas had a brilliant record that had brought high praise from all of the ambassadors he served. An inspector general's report, by Ambassador Robert McClintock, had recommended in 1966 that he receive an immediate promotion to Grade 3 and assignment to the National War College.

The McClintock report was misfiled in the personnel office of the State Department in the file of another Charles W. Thomas, then consul general in Antwerp and he missed consideration by the selection board in session that year.

A special plea from American Ambassador Fulton Freeman, who had headed the embassy, failed to prod the Foreign Service into corrective action. Ambassador Freeman wrote an unusual four-page letter of his "surprise and disappointment" that Thomas was not included on the 1968 promotion list, and stated that the comments by rating officer Joseph Montllor that Thomas was not "ready for promotion to Class 3 this year" and had been "needlessly and unfairly prejudicial and was directly contrary to my own judgment."

On May 6, 1968, Ambassador Freeman wrote to John M. Steeves, then director general of the Foreign Service, to express his great concern about the Thomas case and what appeared to be a "miscarriage of justice" in the failure to promote Thomas to Class 3.

"But I feel even more strongly that the Foreign Service stands to lose an able, effective, competent, dedicated and sincerely respected team if the Thomases are forced to resign because of a time in grade—a loss which at this critical juncture of the Foreign Service can ill be afforded," Ambassador Freeman wrote from Mexico City.

Director General Steeves took no special action to see that the Thomas matter received appropriate attention and did not even confirm whether an investigation was made regarding comments that Charles G. Stefan, a later rating officer in the U.S. Embassy in Mexico City, had been forced by the political counselor, Wallace W. Stuart, to hold back high praise of Mr. Thomas in two subsequent yearly reports because such praise would appear inconsistent with previous unfavorable reports by Montllor.

In spite of Freeman's letter on May 6, 1968, the State Department refused to review the record by Joseph Montllor, or to examine the action of the political counselor who had insisted the high praise of Thomas be withheld because it would seem inconsistent with the earlier report.

The refusal of the Foreign Service to correct the record or try to be fair and just in the handling of this case is a sorry reflection upon everyone in the system. Deputy Under Secretary of State William Macomber Jr., Director General of the Foreign Service John H. Burns and Deputy Director General Howard P. Mace have full knowledge of this case and have had correspondence dealing with it.

Norbert Wyss, an attorney of Fort Wayne, Ind., and a high school friend of Thomas, had followed his career with satisfaction and considered him a success as a Foreign Service officer. He found unbelievable the background of the misplaced inspector general report and the futility of the ambassador's letter trying to correct the record.

Appreciating the need for a bipartisan push, he contacted Sen. Birch Bayh (D.-Ind.) and Rep. Ross Adair (R.-Ind.) to try to right the wrong. The more he investigated the more enraged he became at the system. The same was true of Larry Cummings, a special assistant to Bayh, who found the correspondence with Deputy Under Secretary of State William Macomber Jr. totally unsatisfactory.

"I am unsatisfied with the letter and remain disturbed by Mr. Thomas' case because of what it reveals about the administration of the Department of State," Sen. Bayh wrote to Macomber after having received a letter signed by a new assistant secretary of state, David Abshire.

"Even if Mr. Thomas had been the mediocrity that Mr. Abshire alleges him to be, equity would dictate that he be promoted so that he could retire thereafter with a pension. I find it shocking that a man with 21 years toward retirement is forced to retire at age 47, after dedicating his life to the career principle."

"I understand that Wallace Stuart did all he could to discredit Mr. Thomas throughout his tour in Mexico City in order to justify that first unfavorable report and perhaps out of jealousy of Mr. Thomas' outstanding work and impressive contacts," Bayh wrote. "I am told that Stuart was later selected out for substandard performance."

In other ways the revised time schedule worked against Thomas, Bayh wrote. "Although Ambassador Freeman considered Mr. Thomas his most outstanding officer, optimum praise had to be directed to those officers whose careers were placed in immediate jeopardy by the new time-in-class rules." (A Class 4 Foreign Service officer was forced out if he was not promoted in eight years.) Bayh commented on "the chaos" that resulted from changing the rules in the middle of the game.

Support for Thomas came from liberal Democrat Bayh as well as Ross Adair, Republican conservative. It came from Sen. John Pastore (D.-R.I.) and Sen. John Sherman Cooper (R.-Ky.) and others.

The injustice is not the fault of one administration. It started in the Johnson Administration and carried over into the Nixon Administration. It is doubtful if Secretary of State Dean Rusk or Secretary of State William P. Rogers had direct knowledge of the details of this case, but in the broad sense it was their responsibility to find out.

Direct responsibility has fallen on Deputy Under Secretary of State for Administration William Macomber Jr. who consistently gives Congress bureaucratic reasons why nothing can be done to correct injustices in the Foreign Service system.

The State Department did not admit the misfiling of crucial reports in the Thomas case could cause an injustice and did not bother to investigate charges of malicious

rigging of records in the Thomas case. That would have opened up a whole range of nasty problems Macomber and Mace did not want to face.

No records are kept on reasons for the actions by the selection boards. Consequently, no one is able to go back and question these at a later stage. It makes arbitrary personnel decisions for friends and political favorites easier.

If State never admits that the system could be wrong, and never permits investigation, the system then cannot be proven wrong. It is bad business to look back to determine right or wrong on policy matters. It is bad business to prove high State Department officials will lie and frame subordinates who dissent.

John Hemenway, 44, another Foreign Service 4, was severed by State in the same time frame as Thomas. Hemenway, a Naval Academy graduate and Rhodes Scholar, simply had not been promoted in eight years. He was dropped following sharp policy differences with a superior on German affairs. It is his contention those superiors have lied and distorted the record and that those lies had a direct bearing on his failure to win promotion. He is now seeking a forum in which he can prove those charges.

Hemenway's efforts to work within the system failed, so he challenged the system in a grievance procedure. Fortunately, after leaving the State Department he took a higher post in the Defense Department and has been able to carry on a legal challenge.

The State Department has fought his every effort to get a hearing and to subpoena witnesses to prove his personnel record has been marred by lies and distortions. He says he simply wants to "put all the facts on the line," and Macomber and Mace have put barriers in the way even to the point of violating a State Department rule to fire two grievance panel members in the middle of a hearing now in progress.

Stephen Koczak, another former Foreign Service officer, has been conducting a four-year fight for the right to examine his personnel record at State and to cross-examine superior officers who, he contends, conspired to rig the record against him.

Two points were involved. One was a policy difference, upon which events have since proved Koczak right. The other involved a decision Koczak made to report a serious security violation involving a superior. Koczak contends that instead of being commended for taking proper action, the ambassador did not follow up the violation but permitted the man whom Koczak had reported to write Koczak's fitness report.

Although Koczak fought this battle, and won an assurance his fitness report written by the security violator would not be used against him, he learned that it was not removed from the file and was in fact used later as grounds for selecting him out.

Macomber and Mace continue to stand in the way of Koczak's effort to examine the record and to prove that "lies" have been used in selecting him out, and that those same "lies" have been used to prejudice employers when he has sought employment.

Koczak continues to fight his battle from a job at the American Federal Government Employees' Union office, where he is now employed as a researcher.

A more celebrated case involves Otto Otepka, a former chief security evaluator at State and now a member of the Subversive Activities Control Board.

The Otepka case is now established as permeated with illegal wiretapping and eavesdropping. It is a record filled with proven falsehoods of superiors who denied the electronics surveillance and then later admitted they had testified falsely when caught. Again this took place under the jurisdiction of Howard P. Mace and in the jurisdiction for which Macomber is now responsible.

Both Macomber and Mace have continued to fight reinstatement of Otepka and to defend the State Department support of the liars and the illegal eavesdroppers. They have placed every conceivable barrier in the way of getting to the truth for corrective action, and have been responsible for the continued circulation of erroneous letters on the Otepka case.

Secretary of State Rogers may not have direct responsibility for the handling of the Thomas case, but he nevertheless bears responsibility for what is taking place in his department and for permitting Macomber to continue practices which result in such injustices as the Thomas case.

The secretary of state expressed high-minded goals for the department when he took office in January 1969. His stated objective was to establish a spirit which in the Nixon Administration would lead to "a receptive and open establishment where divergent views are fully and promptly passed on for decision."

"We must tap all the creative ideas and energies of this department in the formulation of a foreign policy responsive to the needs of the future," Rogers said. "Only if we do so can we systematically delineate meaningful alternatives from which the President can determine a considered policy course."

It was, Rogers said, a follow-up of the observation that candidate Nixon had made in September 1968, about the need to "bring dissenters into policy discussions, not freeze them out." "We should invite constructive criticism, not only because the critics have a right to be heard, but also because they have something worth hearing," Nixon had said.

Aside from pompous statements, Rogers and Macomber have done little to change the personnel policies that caused the tragedy of Charles Thomas.

In the days after Thomas died, Sen. Cooper wrote a note of condolence expressing "regret" there was nothing any combination of senators or congressmen seemed to be able to do about the injustices in the Foreign Service system.

A few days before his death, Charles Thomas had discussed a book on "Reform in America" with a publisher. He had completed an outline and one chapter. In the process, he quipped to his wife that an awfully funny book could be written about his own struggles to correct the record. He reasoned that few would believe a serious book about the raw injustices of the Foreign Service system.

There is wry humor in the fact that his death might correct obvious injustices that have seldom received the attention they merit.

HOUSE RESOLUTION ON STUDY OF FREIGHT RATES INVOLVING RECYCLING OF METALS, PAPER, AND GLASS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. VANIK. Mr. Speaker, I am introducing today a House resolution to authorize the House 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. This resolution would enable the committee to take testimony around the country, and to report back

to the 92d Congress on methods by which the Congress and the Interstate Commerce Commission, through direction or legislation, can take action to encourage the recycling of materials such as metals, glass, and paper.

During the next few weeks, I will be asking for cosponsors of this resolution.

The problem of solid waste and the exhaustion of our primary mineral resources is recognized as one of the most pressing environmental problems facing the Nation. Yet a great deal of the problem of recycling materials to eliminate solid wastes and conserve natural resources is due to our own actions in setting freight rates which discriminate against secondary production materials.

This problem was first brought to my attention by two high school seniors in my congressional district, Miss Diane Krasner and Mr. Todd Gross, who have started a recycling council in the Greater Cleveland area. They have very carefully studied some of the freight rate differentials which exist between primary and secondary production materials and have convincingly shown that these rates make it virtually impossible to economically recycle many wastes. Only if we can make it attractive for companies to seek out materials for recycling will we begin to be able to meet the solid waste crisis.

The freight rate problem, which the resolution I am introducing would deal with, is discussed by Miss Krasner and Mr. Gross at some length in a speech which I entered in the CONGRESSIONAL RECORD on April 23, 1971, pages 11752 and 11753.

I would like to enter in the RECORD at this point, a speech by Miss Krasner before the Northeastern Ohio Congressional Committee which met in Cleveland on April 30. In addition, I would like to reprint the resolution in the RECORD, as follows:

STATEMENT BEFORE THE NORTHEASTERN OHIO CONGRESSIONAL COMMITTEE, APRIL 30, 1971

(By Diane Krasner)

Let me preface my remarks by saying that the proposals for solid waste management and for recycling that I am offering this morning are national as well as regional in scope. Many of the problems have already been tackled by fragmented segments of the community. I have taken the liberty of gleaned information from various sources for this presentation.

The current solid waste problem demands a solution. Recycling wastes and solid waste management is aesthetically appealing. However, solutions hinge upon hard, cold economics, realities of business trends, supply and demand. Herein lie the prospects for controlling our waste before it controls us.

If the problems were unsolvable I wouldn't be here today. If the problems couldn't be remedied with governmental assistance, if the citizens of the United States didn't have some suggestions I wouldn't be here. But we do.

We suggest the initiation of programs to ensure an increased, even flow of secondary materials for recycling. The first major area of concern is the equalization of freight rates between primary and secondary materials as set by the Interstate Commerce Commission. By and large the use of secondary materials depends upon the attractiveness of their price as compared with primary materials. The price of many secondary materials is adversely affected by discriminatory freight rates.

For example, in making one ton of steel it takes either one and one-half tons of iron ore or approximately one ton of ferrous scrap. If freight rates for hauling ore and for hauling scrap were based on equal cost per ton this would give scrap an unfair advantage. If freight rates for hauling were based on the value of the material, scrap should cost one-half times more per ton. This would give no advantage to either scrap or ore because it would cost the same to make one ton of steel whether you use iron ore or scrap.

However, this is not the case. In 1966 the average revenue on hauling one ton of iron ore one mile (short haul) was 1.187¢. The average revenue on one-ton mile of scrap was 2.865¢. This means that scrap cost 2.42 times as much to haul as iron ore. Costs for the shipment in the United States can vary as much as \$2.93 per ton. If the freight rates were put into proportion a competitive market would be created which in turn would increase the consumption of scrap metal or scrap paper, or scrap glass, and would develop an incentive for recycling.

Secondly, the depletion allowances on the extraction of virgin materials place secondary materials at a severe disadvantage in the marketplace. While it would, perhaps, not be in the nation's best interests to remove depletion allowances, it would certainly be beneficial to our country's environment to allow an equal tax incentive for the utilization of secondary materials which exist in over-abundance and pollute our nation's countryside.

The third recommendation applies specifically to obsolete ferrous materials. The uninterrupted flow of scrap materials must be maintained by the Commerce Department, except in times of dire national emergency. Repeated interruption, or the threat of such interruption, has played havoc with international scrap markets. For example, last year when prices of scrap iron rose, steel makers went to Washington complaining that our country was exploiting vital natural resources which were in extreme shortage and which the nation could ill afford to lose. . . . Only eight months later, in today's scrap market we find an over-abundance of scrap iron for sale and a consequent severe price dip in iron scrap.

The President has called for a national policy to provide incentives for the use of secondary materials. However, these are not necessarily massive commitments of federal funds. In fact, I am personally convinced that the answer to America's solid waste problems lie within legislative bounds.

Other incentives should, however, be used to convince industry, government, and the public to take action. Relatively little thought and effort has yet been given to the dissemination of information relating to solid waste management.

And yet the key for tomorrow's success is better use of today's tools. For example, optimum use of collecting equipment is often thwarted by obsolete highway codes. Loading capacity for most collection equipment is usually far greater than that legally allowable. To achieve maximum efficiency, waste contractors must be allowed to use maximum loading capacities. Citizens and industries are finding out the answers. Isn't government best capable of getting the answers to all the people who could use them?

If and when the newly authorized federal funds (\$80 million for the fiscal year 1972 and \$140 for the fiscal year 1973) are delegated, the government must follow up their money and provide guidance for its use. Crash programs are not the answer to pollution control; neither are segmented pilot programs across the country. The government can help by training technicians, encouraging research on treatment methods, and furnishing money and expertise for the dissemination of information.

In conclusion, I would like to refer to a

recent program established by the nation's leading can companies. The program is to be recognized as a worthy attempt to save our environment. However, the following is an excerpt from an ecology kit distributed by the National Can Company.

Q. Can a can collection center pay for itself?

A. With the exception of centers taking aluminum cans only, the cost of running a can collection center will exceed the value of the metal scrap collected. The cost for equipping, manning, advertising, and freight for a well-managed center can be expected to be \$200 a ton above the (value) of the cans collected.

As long as the companies are placed in this charitable situation, their program is not feasible as a long-term solution. Government has the control of regulations affecting the situation. These regulations must be assessed and, when necessary, new rules must be established based on economic practicality, if solid waste management and recycling is to be successful in the future.

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

Resolved, That the Committee on Interstate and Foreign Commerce, acting as a whole or by subcommittee, is authorized and directed to conduct a full and complete investigation and study of the freight rates charged for the transportation in interstate and foreign commerce of primary and secondary production materials, particularly metals, paper, and glass, for the purpose of determining the feasibility of equalizing such rates, by legislative or administrative action, in order to eliminate any preference for the transportation of primary materials and encourage the collection and return of secondary materials for recycling purposes as a step toward alleviation of the solid waste disposal problem.

For the purpose of carrying out this resolution the committee or subcommittee is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, or elsewhere, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any member of the committee designated by him, and may be served by any person designated by such chairman or member.

The committee shall report to the House as soon as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable. Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

A TRUE SUCCESS STORY

HON. TORBERT H. MACDONALD

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. MACDONALD of Massachusetts. Mr. Speaker, it is an everyday occurrence for all of us to pick up the daily paper

and read about the bad news in the world. With the many problems and crises that face us as legislators and that face the general public as citizens of the United States, we sometimes lose sight of the good news and of the many people who contribute their time and ideals to make this country, with its many imperfections, a nice place to live.

I would like to ask my colleagues to take a minute to read the following article which is written about Henry Johnson of Cathlamet, Washington. Mr. Johnson emigrated to the United States as a young man from Holland and brought with him a desire to contribute his share in making his community a better place to live. I think that he has contributed more than his share and deserves a "thank you" for bringing pride and dedication to his job, to his country and to his fellow man.

The article follows:

A TRUE SUCCESS STORY

CATHLAMET.—With a straight face, Henry Johnson declared that he had come West in 1928 in a covered wagon. Then watching us struggle to swallow this startling bit of information, Henry grinned and agreed his transportation had been a Model-T Ford with a cloth top.

The vehicle lost its top en route, so Henry actually arrived in Seaside, Ore. in a completely air-conditioned automobile.

Henry Johnson's fame in Wahkiakum County rests on his enviable prowess as a logging camp cook—36 years with Crown Zellerbach until his retirement in January, 1970.

He had been born in Holland on Sept. 10, 1907, and emigrated to the United States in 1926. Didn't know a thing about cooking then, and spent his first two years in this country working in Chicago and Detroit.

For a time he worked on the roads in the Seaside-Cannon Beach area, then started his cooking career ("I just picked it up," he said), with the Eastern & Western Lumber Co. in Molalla. Until in 1933, the same year he was married. Henry went to work for Crown.

He started as a meat cutter, then became second cook, and eventually first cook. "We fed about 300 men, with 20 people in the kitchen, counting cooks, meat cutters, bakers and waiters."

The meals were served family style, and Johnson's eyes opened wider as he commented on the enormous appetites of the loggers. "And the meals had to be ready on time or they'd knock down the door."

It took some doing to get those meals ready to serve. A typical breakfast in the 1930's consisted of bacon and eggs, toast, hotcakes, fried potatoes, hot mush, cold cereal, pastry, coffee, and milk. Lunch was easy—just sandwiches for the men to take into the woods with them. Dinner meant another big meal, starting with soup and working into steak, potatoes, curry and rice, two vegetables, beans, cheese and dessert.

"I especially like to cook meat," Henry declared, "but in a logging camp you learn to do everything." And for years he baked his own pies, cakes and bread, until later the camps bought baker's bread.

He even made soap, "tons of it from lye and grease." The trick, he said, was to have grease and lye the same temperature when put into water.

"Sure, I like to cook," Henry said agreeably, "although I never could please everyone. The men, they blamed the cook for everything. I remember," he went on, settling back in his chair, "when World War II ended, and some of the soldiers came back into logging. Oh, they said the meals were great after the Army food and they'd never complain again." He sighed. "Three weeks later they were complaining louder than anybody."

Henry has cooked for Washington State governors and legislators visiting in Wahkiakum County, and once for a movie company that produced "God's Country and the Woman" in the Wahkiakum hills. He remembered the two stars, George Brent and Beverly Robbins.

Who cooks at home? "My wife, Kathryn. She's a better cook than I am."

For the past 15-16 years he has been chief cook for the Wahkiakum PTA-sponsored smorgasbord dinner. He was on hand for the first annual smorgasbord, and will be preparing the ham, turkey and other meats again this year. The date is May 2, starting at 11 a.m. "We're pretty well organized," Henry said, "and we have to be, because each year we feed at least 1,000 guests."

He described, practically in living color, the gustatory delights that awaited diners on May 2—barbecued salmon, fish cakes, Swedish meat balls, salads, homemade pastries, and pickled herring. The proceeds are used to benefit school children in various ways. It is served at the Julius A. Wendt Elementary School, with modestly priced tickets available at the door.

"No, I don't miss the logging camp anymore," Henry admitted, "because there's plenty of work to do on the farm." This is a place he bought in 1947, in the Elochoman Valley. He raises beef cattle, and finds time for his hobby of woodcarving.

There are two grandchildren to visit in Spokane, children of his son, Carl. Another son, Hank, lives in Amboy, and the Johnson's daughter, Mrs. Mary Ann Patman resides in Washington, D.C. Henry and his wife hope to make a trip to Washington one of these days.

Henry has never been back to Holland, and doesn't suppose he ever will visit it, although a brother is still living there. Incidentally, that brother's name is Janson. Henry changed his somewhat when he came to America.

INTERSTATE AIR ABATEMENT CONFERENCE

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. BYRON, Mr. Speaker, yesterday in Keyser, W. Va., the Air Quality Office of the Environmental Protection Agency began hearings on a problem that has existed in western Maryland effecting local Christmas tree growers. I commend the spirit of this conference and would like to include an editorial that appeared in the Cumberland Times on May 10, 1971 on this subject.

The editorial follows:

POLLUTION STUDY IN KEYSER TUESDAY

An interstate conference is scheduled for Keyser tomorrow to consider air pollution problems that may exist in the Mt. Storm, W. Va.-Gorman, Md., and Luke, Md.-Keyser areas.

The conferees will be representatives of the Air Quality Office of the Federal Environmental Protection Agency and of the air pollution control departments of the states of Maryland and West Virginia.

The conference originally requested by Governor Mandel in order to investigate damage to Christmas trees in Maryland, alleged to be caused by emissions from the Mt. Storm power plant operated by Virginia Electric and Power Company.

Governor Moore of West Virginia then reportedly requested that the conference be expanded in order to look at pollution prob-

lems allegedly caused by Westvaco's Luke mill.

All of us without doubt want a cleaner environment but we sincerely trust that the conferees will not overlook the economic impact of recommendations they may propose.

We are not familiar with Vepco's plans for environmental controls at Mt. Storm but we do have rather complete information, gathered over the years, about Westvaco's program at Luke.

First of all, we want to acknowledge that pollution does exist in the area and we know that Westvaco officials agree with us that this is so. The point is, however, that the paper company already has taken many significant steps in an on-going program to improve the quality of both water and air. For almost a year, Westvaco has had a plan for compliance with Maryland's air quality regulations that has the approval of the state's air quality control division and Dr. Neil Solomon, Maryland's secretary of health.

While we do not pretend to understand the technology involved in solving the mill's odor problems and those associated with its other emissions, including sulfur dioxide, company officials have told us that their compliance program is a good one.

We also are convinced Maryland would not have approved Westvaco's plan if state officials do not believe it.

One problem associated with sulfur dioxide is that there is currently no practical way to control it except to burn low sulfur fuels such as natural gas, low sulfur oil or low sulfur coal. All are in limited supply.

Coal containing more than one per cent sulfur, however, is plentiful and this is the kind of coal that predominates in Western Maryland's coal fields.

Unless some system is developed to remove sulfur dioxide that is created after combustion of this high sulfur coal, markets for it will decline as other states follow Maryland's lead and adopt regulations prohibiting the burning of fuels containing more than one per cent sulfur. Maryland's coal business consequently could deteriorate rapidly.

As an illustration, two of our major coal using industries already have switched or announced they intend to switch to natural gas or low sulfur fuel oil. These are the Celandese Fibers Company and the Kelly-Springfield Tire Company.

Westvaco hopes to continue to burn coal and has invented a process that will recover sulfur dioxide from the stacks after coal is burned. Still in the developmental stage, this process, if successful, could be a major factor in allowing the continued use of coal, which is the only plentiful source of energy in this country.

Westvaco has invested three-quarters of a million dollars in the invention and development of this process to date. The Air Quality Office of the Federal Environmental Protection Agency has joined with Westvaco by contracting with the company for a \$350,000 investment this year in further development. Work has been underway by the company for several years and successful completion of the project still appears to be a few years away. This is a simple illustration in itself that research and development is indeed expensive and the results cannot be achieved overnight in the solution of complex problems.

Westvaco, through its payrolls and its purchase of raw materials and other supplies and services, has a tremendous impact on the economy of our area. It is a big operation that requires huge investments of capital to keep it competitive with other paper companies.

We know that Westvaco has an enlightened attitude toward pollution control and already has spent millions of dollars in cleaning up the environment. Under its program, the company intends to spend millions of dollars more for this purpose.

We hope the conferees after this air quality conference will recognize the steps Westvaco and other industries have taken and will allow them to continue to make environmental improvements in an orderly manner as proposed in plans for compliance.

IMPORTANCE OF "PEOPLE FACTOR" TO THE NAVY

HON. WILLIAM B. SPONG, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, May 13, 1971

Mr. SPONG. Mr. President, I had the honor of introducing the Assistant Secretary of the Navy, the Honorable Frank Sanders, to the Hampton Roads Maritime Association, at its annual banquet in Norfolk, Va., on May 6.

Mr. Sanders, while addressing himself to our defense capability, and Russia's rapidly developing Navy, also pointed out the importance of the "people factor" to the Navy's installations and logistics, weapons and equipments, and in the day-by-day lives of Navy men.

I ask unanimous consent that Mr. Sanders' remarks be printed in the RECORD.

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

REMARKS BY THE ASSISTANT SECRETARY OF THE NAVY FRANK SANDERS

It is a special privilege to talk with the Hampton Roads Maritime Association today because of the role this area and its people have had in Naval history. This unique role has been one of the development and operation of the most advanced technology in Naval warfare. Consider the milestones in Naval history that have occurred here. The battle of the Monitor and Virginia in 1862 marked the end of the wooden-ship era; the first shipboard launch of an airplane in 1910 marked the beginning of carrier aviation; and, 55 years ago today, the first ship-to-shore voice communication in 1916 marked the advent of modern communication systems in the Navy. All these events are of tremendous significance to the Navy. The special Naval tradition of the Hampton Roads area is further enhanced by the construction of the first 16" gun battleship, Maryland and, of course, the first nuclear-powered carrier, Enterprise.

The importance of this series of technological breakthroughs is of great historical interest but its contemporary significance will become clear only after viewing the challenge future American seapower must face and the constraints under which we must meet this challenge. The challenge I refer to is that of Soviet seapower.

Traditionally, Russia has been a strong land power. Her post-World War II anti-shiping oriented Navy was a mere extension of her land power. On the one hand, Russia, the land power, could show a naval superiority only in a few areas such as the Baltic and Black Seas. On the other hand, although the United States and her allies had adequate land power to neutralize the Soviet challenge, we maintained superior naval presence in the Atlantic and the Pacific which stretched from the Formosa Strait and the Tonkin Gulf to the shores of Lebanon in the Mediterranean. The fruits of our naval superiority, although many, have been subtle and often unappreciated. We have been able to give firm assistance to our friends overseas from Korea, Vietnam and Taiwan in the Pacific to Lebanon, Greece, and Turkey in the Mediterranean.

Today this Soviet threat is changing. Russia is emerging as a first-rate, diversified seapower.

Nowhere is the challenge of this enhanced seapower more obvious than in the Mediterranean. Consider this strategic area where only one decade ago the United States Navy was unchallenged. It had freedom of action and was welcome at ports on all sides of the Mediterranean. In every sense America had the capability to control this southern flank of our NATO allies—a capability which is important to the security of the free world.

The present situation is quite different. Our Sixth Fleet in the Mediterranean now consists of 40 or less ships, often with more than half dating from World War II. The Russian Navy in the Mediterranean now essentially matches ours in number. Theirs are new ships, large, sleek missile destroyers and modern submarines. For more than ten years the Russians have been perfecting their surface-to-surface shipboard missiles, missiles which can be fired from ships at ship targets far over the horizon. In this missile area, they outstrip anything existing in the rest of the world. Russian Navy ships in the Mediterranean are armed with these missiles.

This trend makes this picture even darker. The Russian naval presence in the Mediterranean is still increasing. It may come as a surprise to you to know that over the past two years the number of Navy ship-days the Russians have spent in the Mediterranean exceed the corresponding number for our Navy.

The Suez Canal, when reopened, could make it easier for Soviet seapower, now building up in the Mediterranean and Black Sea areas, to expand southward into the critical oil-rich area of the Middle East. Although the United States itself has a comfortable margin of oil supplies, the free world as a whole depends on the Middle-Eastern oil. Europe imports about 8 million barrels per day—5 million from the Persian Gulf and 3 million from North Africa. Japan imports 90% of her oil from the Persian Gulf area—about 2.6 million barrels per day. The free world uses 88% of the oil imported from the Persian Gulf area and 97% of the oil imported from North Africa. Needless to say, these strategic facts are surely apparent to the Russians.

The simple fact is that in the last ten years the average age of our total fleet has been increasing and the size of that fleet, due primarily to fiscal constraints, has been decreasing. In that same time frame the Soviet Union has built a large and formidable submarine force and has embarked on the construction of a modern surface fleet. Today they are capable of building submarines and surface war-ships at a far higher rate than ever. In a recent statement the Secretary of Defense, the Honorable Melvin Laird, said, with reference to build-up of Soviet military power: "We can characterize Soviet activity as 'momentous' while our activity has been almost 'moratorium'."

In no instance is this statement any more applicable than in seapower. The Soviet, in the words of Admiral Rickover, "have applied tremendous national resources to the expansion and modernization of their submarine construction yards." To this we can add their increased capability in the construction of sophisticated surface ships. It is a simple fact that today Russia not only has maintained and strengthened her land power, added to her air power, achieved parity with the United States in strategic power, developed intermediate range ballistic missiles that constantly threaten free and captive Europe, but has embarked on a build-up in seapower that has already made her the second most powerful naval force in the world—a build-up that shows no sign of abatement.

Marry this build-up in naval power to the

unprecedented build-up in the Soviet merchant marine and you have the emergence of a maritime power for the projection of a communist foreign policy overseas.

Admiral Zumwalt, the Chief of Naval Operations, best summarized the precarious nature of the present situation when he spoke before the National Press Club. He stated that "... it is inevitable and incontrovertible that the day is coming when the Soviet Navy will be the leading Navy of the world. There is a great deal of argument about whether it will be this year, next year or the year after, but it's coming if the American people do not rise to the occasion."

What then is being done to maintain our capacity to meet this Soviet challenge? Our deterrent in the strategic field is being maintained at a level at least sufficient to maintain parity with the Soviet Union. A major portion of that deterrent rests in the Fleet Ballistic Missile program with missile carrying submarines standing guard today under the seas to protect the free world. On April 25th the second submarine carrying the improved Poseidon missile went out to sea to join a fleet of 40 other FBMs submarines. In addition, the President's Budget for fiscal year 1972 now before the Congress carries funds for the development of a new and more potent missile firing submarine weapons system known as ULMS or Underwater Launched Missile System.

The structure of our general purpose forces is based on implementing the Nixon doctrine. You will remember that the President noted in announcing that doctrine that, "America cannot and will not conceive all the plans, design all the programs, execute all the decisions and undertake all the defense of the free nations of the world."

The implementation of this doctrine calls for a reduction of our commitments abroad and an assumption by other nations of the primary responsibility to provide the manpower for their own defense. The President has pointed out, however, that this doctrine is no invitation to slash defense budgets and to completely disregard our commitment to the free world. He stated that while exercising prudence in reducing our overseas forces:

"We must resist the automatic reduction of the American presence everywhere without regard to consequences. While trimming our defense budget where possible and adjusting defense to modern realities, we must resist ritualistic voting against defense spending."

To properly complement this doctrine the United States requires a strong, robust, well-equipped and organized, modern professional defense force ready to protect U.S. foreign policy and the free world wherever directed to do so. The size of that force need not be large by our own past standards, but will be almost in direct ratio to our ability to provide the modernity, equipment and professional volunteer personnel required.

How has the Navy approached their portion of this program? In order to maintain numerical size we could have invested monies into the maintenance and support of our aging fleet. We have chosen an alternative course of action. Tomorrow's Navy will be superficially smaller but its capacity for meeting future challenges will be enhanced. The heart of the striking power of the Navy still remains the fast carrier task force—modern ships with a continuing emphasis on nuclear power-carrying modern aircraft. That force is being supplemented by provisions for increased modernity in our important anti-submarine warfare posture to counter the growing Soviet submarine threat. New and highly capable amphibious ships are being built and programmed to support the greatest fighting force in the world—the United States Marines.

Our future Navy's ability to meet its challenges, however, can be maintained only with the type of technological advances that have been part of the tradition of Hampton Roads. Just as the Monitor and Virginia were smaller but more effective than other ships of that era, the Navy of the future must be smaller but more effective in serving the national interests.

Such a program cannot be achieved day before yesterday or even overnight. It demands patience and stewardship on the part of all of us—in or out of government—all of us who are proud to call ourselves "Americans."

If our Allies implement their manifestation to provide their share of defense, particularly manpower, to their portion of the free world, these forces coupled with our modern military power then will provide a reward for your stewardship and patience in the form of a realistic deterrent to any potential aggressor no matter how powerful it may be.

While we are proud—and I believe, rightly so—of the modern weapons and equipments we are producing—all of these are just so much inert material without the people to use them. Only people think and feel and make decisions—only people dare to risk greatly and fight bravely to defend peace and justice and freedom. People are still our most valuable asset.

We recognize this—act upon it. More and more, we make sure we crank the "people factor" into our installations and logistics, into our weapons and equipments, and into the day-by-day lives of our Navy men as they perform their part of the task of naval operations.

We are seeking more and better housing—sea pay and better living conditions for all. In these and other ways, I am sure we will increase morale and motivation, and improve both performance of duty, and retention, of our fine Navy men.

Nowhere is the importance of people more apparent than when we consider our servicemen who are prisoners of war or missing in action. These men and their families are enduring physical hardships, emotional sufferings, and long separations beyond anything we could ever hope to repay. From those few who have returned we do know that these men have not given up hope. The primary factor giving these men the strength to endure is their faith in God and country.

A former prisoner of war, Air Force Major Joe Carpenter, has commented:

"I am convinced that my faith in God brought me through. Prayer and faith gave me hope and my religious up-bringing never let me down. When I got home I was amazed at how many people said that they were praying for me—and I firmly believe that it really helped. Our religious beliefs were also a tremendous help to my family. Their association with the community, and especially the church, held the family together in our mutual faith and gave them hope."

These men as well as all the others who have stood up to be counted when their Nation called deserve our full-hearted support, our prayers and our eternal gratitude.

These men and their families challenge us to remember that the strength of our Nation depends basically on the moral and spiritual fiber of the men and women who make it up. The courage of Americans throughout our history, their patriotism, their love of God and country and their dedication to the ideals of liberty and justice for all have sustained us in the past and will sustain us in the future. It is our collective responsibility, yours and mine to promote and encourage these attributes in all of our citizens beginning in our own families, our neighborhood, our towns and cities, and

spreading throughout this land. It is only through this route that this nation—under God—will achieve the destiny of greatness which history demands of us.

Now will you join with me in closing with a prayer for our men who are prisoners of war or missing in action and their families.

"Eternal Father strong to save, we pray Thy constant blessing and support for our men who are prisoners of war or missing in action and their families. Grant unto each of them the comfort of Your presence. Uphold them with Your love. Give them the strength to endure in their daily lives and in any hardships that arise and bestow upon them the peace of mind and heart through the One Who is the Prince of Peace. Challenge us by their lives and sacrifices to so walk and work with You along the way to peace and love among all that their sacrifices will not have been in vain. Through Jesus Christ Our Lord. (He Who is the Giver of Eternal Life.) Amen.

TEN-MILE-PER-HOUR BUMPERS SHOULD BE MANDATORY

HON. MICHAEL J. HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. HARRINGTON. Mr. Speaker, today I am introducing a bill which could save American car owners billions of dollars in repair and insurance costs per year.

I do not feel that the Federal motor vehicle safety standards setting the bumper requirement for front and rear impact protection at 5 miles per hour and 2.5 miles per hour respectively are sufficient.

I feel that the bumper that can withstand only a 5-mile-an-hour collision against a solid barrier without damage is not enough. Although this would also withstand a 10-mile-an-hour, car-to-car collision, a bumper that can withstand a 10-mile-an-hour collision against a solid barrier without damage can withstand a much greater collision from car to car.

Specifically, the statistics comparing the cost between collisions at 5 miles an hour and 10 miles an hour against a solid barrier show the need for greater bumper protection. The 1970 figures follow:

1970 LOW SPEED CRASH TEST RESULTS—INSURANCE INSTITUTE FOR HIGHWAY SAFETY

	5 miles per hour front	5 miles per hour rear	10 miles per hour front
Chevrolet Impala.....	\$196.20	\$247.30	\$491.40
Ford Galaxie.....	185.80	325.25	459.05
Plymouth Fury.....	171.30	202.05	600.05
AMC Ambassador.....	309.25	100.05	615.75
Ford Mustang.....	160.30	147.05	400.70
Plymouth Barracuda.....	176.60	197.10	332.90
AMC Javelin.....	262.67	132.40	618.85
Chevrolet Camaro.....	130.10	174.00	599.35
Volkswagen.....	120.25	64.45	322.35
Toyota.....	133.70	69.30	410.94
Maverick.....	153.10	204.75	427.35
Hornet.....	204.50	193.85	508.40

And it is clear that things are even worse for 1971 cars.

1971 LOW SPEED CRASH TEST RESULTS (INSURANCE INSTITUTE FOR HIGHWAY SAFETY)

	5 m.p.h. front/barrier	5 m.p.h. rear/barrier	10 m.p.h. front/barrier	15 m.p.h. front/barrier
Sedans:				
Chevrolet Impala	\$367.90	\$447.00	\$828.50	\$1,170.50
Ford Galaxie	341.20	318.55	781.50	1,207.45
Plymouth Fury	202.25	266.35	633.50	870.65
AMC				
Ambassador	415.40	285.20	699.25	1,206.98
Small cars:				
Volkswagen	130.75	59.05	347.85	615.20
Chevrolet Vega	181.30	228.45	439.05	785.60
Ford Pinto	164.20	210.00	535.70	816.34
AMC Gremlin	121.30	286.90	576.92	830.06
Intermediates:				
Pontiac Firebird	229.00	262.60	915.25	1,142.45
Buick Skylark	427.10	226.85	880.80	1,025.80
Mercury				
Montego	402.11	267.35	752.49	821.90
Plymouth				
Satellite	98.45	256.35	289.10	729.45

American consumers spend \$25 to \$30 billion a year on auto repairs. The Senate Subcommittee on Antitrust and Monopoly has reported that American consumers—considering conservative estimates—literally waste \$8 to \$10 billion for auto repairs annually. American cars are fragile and delicate.

The largest complaint by the major car companies is that such a bumper is not cost effective. They base their statistics according to the payback to the consumer over a period of 10 years, the average life of an American automobile. The payback for a 5-mile front bumper and a 5-mile rear bumper is cost effective after approximately 6 years, whereas, as the General Motors Corp. contends, a 10-mile-an-hour front bumper and a 10-mile-an-hour rear bumper is not cost effective until somewhere in the 11th year, 1 year after the average life of the car. However, this statistic is based on a 20-percent reduction in insurance rates. I believe that the consumer need not bear the entire cost of producing the better bumper, and that the attempt at proving a "not cost effective" argument is the auto industry's strategy to escape Federal guidelines for the "safer car."

My bill, very simply, would reinforce the durability of American cars so that Americans will not have to bear the burden of increasing repair costs, injuries, and accidents. The insurance industry has estimated that a bumper can withstand a 5-mile-an-hour collision into a solid barrier without damage would save consumers one billion annually in insurance and deductibles alone.

There is not any doubt that a bumper—front and rear—that can withstand a 10-mile-an-hour collision against a solid barrier is better than one that can only withstand a 5-mile-an-hour barrier crash—both for decreasing the damage to the car and reducing the number of injuries inflicted by crashes.

The Insurance Institute for Highway Safety has said that:

Unfortunately, although the techniques for solving the problems have been available for years, the results of our most recently completed series of test—involving 1971 model automobiles—show that they continue to be ignored in the design and manufacture of new cars being sold to consumers today. The technological remedies remain on the shelf, where they have gathered dust

for years." (Testimony by President William Haddon, Jr., of the Insurance Institute for Highway Safety to the Senate Committee on Commerce, p. 3, March 10, 1971.)

Mr. Speaker, I urge the House promptly to consider this legislation.

JETPORT SITING IN ENGLAND HAS U.S. PARALLEL IN NEW YORK STATE

HON. JOHN G. DOW

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. DOW. Mr. Speaker, I am inserting in the RECORD a most informative article from the London Observer's Patrick O'Donovan describing the very active citizen involvement in the location of a third airport site for London.

I am privileged to represent the Hudson Highlands in New York State which has been targeted by Gov. Nelson Rockefeller as the site for the New York area's fourth jetport.

Mr. Speaker, I am encouraged by the report from abroad that would indicate the British people have been heard, that a decision of such magnitude could not be made in an arbitrary manner. Because of the parallels with the Hudson Highlands, long a delightful and beautiful section of our Nation, and steeped in our own revolutionary history, I thought I should bring the problem of our own international jetport to the attention of my colleagues:

CUBLINGTON WINS A BIG ONE

(By Patrick O'Donovan)

LONDON.—A famous victory has been won in England for the principle of conservation, for not treating your economy as king and your inherited landscape as a rubbish dump. It was a victory that showed that protest within a democracy works and that the walls of government and cold-hearted planning can still be made to crumble before the trumpets of the public will.

The victory concerned a site for a third airport for London. London is one of the crossroads of world air travel. More than that, Londoners are watching their city—with politely concealed dismay—turn into a major tourist attraction. You now have to queue at length to see the Crown Jewels in the Tower of the shrine of King Edward the Confessor in the Abbey. And such patient and currency-bearing visitors must be served.

The No. 1 airport is at Heathrow, on the western edge of the city where it is uncertainly deciding if it should stop being a suburb and become countryside. Heathrow is a vast and boring sprawl that never stops changing. There is a secondary airport at Gatwick, 30 miles to the south, and they are both overcrowded. So, despite the promise of vertical take-off aircraft, a new airport was decreed.

Now, patently, England is a very crowded sort of garden. Even the armed forces are finding it increasingly hard to get a place where they can practice with their guns without disturbing a peer in his stately home, or yachtsmen, or highly organized ramblers, or farmers who here live in an almost perpetual state of organized anger.

The last Labor Government laid four possible sites before a Royal Commission, a sort of expert and expensive jury that is meant to make up the minds of the rulers

on questions of disputed detail. All the sites were within the lush counties that surround London and that live in danger of obliteration by the city's needs.

The Roskill Commission (named after the judge who was its chairman) chose a site in Buckinghamshire around a village called Cublington. The commission's terms of reference were austere economic and geared to the convenience of air travelers. The site they chose was the cheapest, the most practical and it had the easiest access to London. Only one man on the commission, Prof. Colin Buchanan, the distinguished urban planner, disagreed with the report. His line was that to sterilize 75,000 acres of enchanting countryside and prime agricultural land would be a national and self-inflicted disaster. He became a national champion almost overnight.

The land around Cublington is not really tourist country. It is a place for living in. Its fields are beautifully upholstered with tall trees and rich hedges. Its villages are small and comfortable. It looks green and rich and shines with the love and care of generations. Some families here have used the same farms for 400 years. Fifty miles from London, there is a closeknit community of cousins and in-laws consciously enjoying their land. They are not dominated by great landowners. They are a relaxed and friendly people. And without doubt, life around these parklike fields, is of a singular sweetness.

How they saved themselves is fascinating. They raised 70,000 pounds locally and nationally for a defense fund. That went, for the most part, to pay the lawyers and experts who had to be hired to put their case before the commission and to prepare their documentation.

Then they evolved a genuinely popular organization. Fighting for their survival were the people who lived there—farmers, schoolmasters, craftsmen, landowners, commuters, laborers, and, of course, vicars. One of these the Rev. Hubert Sillitoe, who lives in Dunton village and is a farmer himself, had a fine turn of Cromwellian invective.

He keeps his lonely and exquisite 13th-century church as if he were expecting the Lord's coming, which indeed he does. He is gaunt and lively and elderly and lives in a vicarage of singular discomfort. Of the Roskill Report, he said: "This is devilish. It calmly, ruthlessly, sadistically, callously proposes that all this population be moved, that the churches be razed and the resting places of our dead be ravished. . . ." He was quite prepared to advocate defensive violence. And some bright local propagandist produced a charmingly amateur pamphlet that gave instructions on how to defend a farm, how to block a road and how to make a Molotov cocktail. That caught the press and no public relations could have found a more potent gimmick.

Indeed, the whole district, in a most un-English way, courted the press. People talked freely and no reporter left without an eloquent quote. The villages were plastered with angry slogans until it looked as if a great election was in progress. They put on photographic demonstrations and called on God in their churches to save them and Fleet Street loved them. And the whole nation became aware of this quiet corner. Yet there was nothing phoney about the feelings of this people.

But their greatest asset was a few old churches. The English are passionately addicted to old churches even though they seldom use them for their original purpose.

In the village of Wing, on the edge of the proposed airport, there is a splendid church with a Saxon chancel of about 1000 A.D. There were two other churches of similar vintage; one of them with Danish carvings that did not look too Christian. These were both due for demolition. And in the center of the proposed runway there was the village

of Stewkley which has a Norman church, virtually untouched by time. It is a block-house of a building—massive, confidently barbaric, with a great square tower over a church that you could defend as easily with arrows as with prayer.

These finally did the trick. You cannot move Norman churches. Their immense walls are built of rubble and would crumble into cartloads of broken stone if you tried to move them. And you do not touch Norman churches. Here they take emotional precedence over even the most exquisite Gothic.

In the end, the people of England grumbled and the government heard and the airport is now to be built elsewhere on a stretch of lonely coastline near the entrance to the River Thames. It will be very expensive and a little impractical. The place rejoices in the name of Foulness. But that is another story. For that district is famous for its wild geese and rare migrant birds. And that lobby has not yet found its full voice. But, at least, a quietly marvelous district has been saved to go on as before. And that is a famous victory.

REACTIONARY—WHO?

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. HUNT. Mr. Speaker, under the Extensions of Remarks of May 10, the gentleman from Massachusetts, ROBERT F. DRINAN, inserted news articles in connection with the demonstration at the U.S. Capitol on May 5, one of which appeared in the New York Times under the heading: "Repression on Capitol Hill."

After berating the law enforcement officers in defense of this rabble rousing mob that came to close down the Capitol, the Times goes on to label the gentleman from Louisiana, JOE WAGGONER, and me "reactionaries," presumably because I did not attempt to stop the police from breaking up this unlawful assembly. It might be noted that among this motley gathering of humanity was one male who completely disobeyed for the benefit of all present, another who was waving the Vietcong flag, and even a female who thought it might add to the dignity of the occasion by taking off her jeans.

According to the Random House Dictionary of the English Language, "reactionary" is defined as "a person who favors or inclines to reaction" and then goes on to define "reaction" as an "action in response to some influence, event, and so forth" or a "reverse movement or tendency; an action in a reverse direction or manner." If that is taken to mean that I do not condone the defiant and recalcitrant conduct of this bunch of hirsute, lawbreaking vagabonds who trample upon the rights of others without so much as a wince, and then demand their constitutional rights, then I do not mind being called a reactionary. At least I know that I have the large majority of the American people in my corner.

It does not surprise me that the New York Times is suffering from the same syndrome that afflicts the "counter-culture"; namely, that anyone who does not see eye to eye with their point of view must be shouted down. It also occurs

to me that this kind of objective reporting is the very thing that the Vice President has been exposing over the past several months. Paradoxically, the Times has resorted to the same name calling for which it has so frequently chided the Vice President.

KENT STATE MEMORIAL

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. SYMINGTON. Mr. Speaker, on May 4, I addressed the student body of Webster College in Webster Groves, Mo. I include those remarks in the RECORD at this point:

The contemporary history of America seems at times to be but a succession of sad anniversaries. To the ages now belong the soaring spirits of some we knew well, John F. Kennedy, his brother Robert, Medgar Evers, Martin Luther King, and others not so well, but in a sense no less vividly, because though not yet leaders of their society, they were its children—the Kent State four. Add to these some thousands of other young Americans whose last full measure is forever commingled now with the blood of the wondering victims of My Lai, Hue and the jungle villages of three hapless nations in Indo China.

No month has been spared as a recorder of untimely death, least of all May with its promise of blossoming life. On the Kent State campus one year ago today, the promise of life was broken for four young Americans. But an unbreakable pledge of remembrance was also made at that same moment. What questions must disturb the conscience of America? Many a young guardsman wonders if his was the shot, and, if so, if his safety required it or duty demanded it? These questions echo all the way up the chain of command as well they might, and must. That chain, you know, ends with us, the people, perhaps the greatest of people, who have raised governments to power, judged them, and maintained or replaced them according to our understanding of the good or ill they do.

And who are we? We are the students and the guardsmen. We are Mary Vecchio who recoiled in horror from the scene. We are the publishers of her photo. We are the cruel, irrational writers of the hate mail she then received. And we are the sympathetic and heartstricken who sought to mend that wound. We are the veterans who appeared before the Senate Foreign Relations Committee and whose testimony bore the silent punctuation of silver stars, purple hearts and missing limbs. We are the Congress who listened, and heard, yes, Congressmen and Senators, including one of yours, the senior one, whose car was mobbed and half overturned yesterday morning on the way to work by others of us who were enthralled to have a Senator to molest regardless of his position on the war.

Enthralled, because indiscriminate violence is an infectious attraction for human beings who feel trapped and cheated by circumstances over which they have no control—a kind of mesmerism that would induce one to say, "well, he's government isn't he," just as an ocean away another might reason, "well, they're not really people are they?"

We are all of these, and somehow the distillation of our hope, anguish, malice, inductive, thoughtlessness, pain, intelligence,

forgiveness, energy and love, will mark the America we are for future ages to judge.

Who can doubt, as Pogo once so well observed, "We have met the enemy and he is us." But aren't we also the friend? Are we not the farmer of Lawrence, Kansas, whose words are recorded in Bill Moyer's book, *Listening to America* and who said he felt he was as good as he was bad and only wished that someone would appeal to the good in him. What Lincoln referred to as "the better angels of our nature" are elusive, surely, but not unreachable. And isn't that very reaching out sacred duty?

To reach for the good in each other is the challenge issued by fate to every human on earth—in the Indian subcontinent where the Muslim reaches in another way for the Hindu; in the Middle East where Arab and Israeli touch and pretend to be at arms' length; in the Soviet Union where discredited poets reach for the ear of humanity from the mental institutions to which they have been committed; in Biafra where a child's reach for bread still exceeds its grasp; and in Indo-China where many a weary and frightened man stops to look a moment at a fallen foe mindful perhaps of the irony in Thomas Hardy's verse:

Had he and I but met
In some old ancient inn
We might have sat down to wet
Right many a nipperkin

But ranged as infantry
And standing face to face
I shot at him and he at me
And killed him in his place.

Yes, strange and curious war is
You shoot a fellow down
You'd treat where any bar is
Or help to half a crown.

We have been ranged as infantry, artillery and airpower for ten years in Viet Nam and its neighboring states. Given the initial reasons for going, the resources spent and those remaining, the tragedies unleashed both there and here, including the one we mourn today, that's long enough. So I voted in caucus to withdraw our forces this year. The resolution failed by one vote. I voted in the House to reduce the draft extension from two years to one year. This fell short by two votes. Accordingly, to assert Congress's constitutional war making power I voted against the draft altogether. These votes—and their closeness regardless of outcome—betoken change—great change in perspective between the May of last year and the May of this. The system is responding.

Looking at our country and its needs over the past two years, many of us with some success have tried to express our views of the necessary priorities by voting to override Presidential objections to increased funds for housing, health, and education purposes. My own visits home have confirmed the need to face these problems honestly and quickly. They also confirmed the need for the 18 to 20 year old, newly franchised, to address his and her energies and ideals to the resolution of problems which are the province of local and state government. We need you at the township meetings, aldermanic sessions, mayoral decisions. Each corner of our America will be built or neglected where it's at—and that is not always Washington.

There is in addition reason for this perspective even if the grand stage of world events is the only one you wish to trod. This was illustrated for me last year when, following the Cambodian incursion, over two hundred young Missourians visited my office in a well-orchestrated and coordinated effort to secure support for a House resolution similar to the Church-Cooper Amendment on the Senate side. I did support that resolution, and as the conversations continued I

would ask for a show of hands of how many knew their aldermen, councilmen, or committeemen or women of their respective townships, wards, and/or precincts. Only one hand went up—with the question—what's a township? Until more perfect if not magical processes are developed for identifying and furthering the great political causes of our time, and the candidates who would deal with them—the grass roots organizations of our two major parties will continue to perform that function. Working in such political subdivisions as townships and wards—Democrat and Republican clubs or committees meet—at least monthly—and more frequently as elections loom ahead—to discuss what it is they want for their community, state and nation, and which individuals deserve their support in the pursuit of these goals—County conventions lead to State Conventions—or primary candidates—and every four years—a national convention where the choices are narrowed down to two men—one of whom must try to head the executive branch of government of this most diverse, independent, and courageous of people, the American people. Which is to say, us.

While we are not bound by what exists, and find it often wanting, we can form our own organizations and canvass our own votes. We must remember as we do, it is a nation we wish to move—and the momentum of nations is ponderous—if we would turn this great nation from one course or another—it must be done in concert. We should look on each other as co-signers of a new compact for a crossing no less perilous or promising than that of the Mayflower—to a greener future, where gentleness is rewarded, and peace made heroic.

To our fellow American citizens and those of other lands—differing in age, race, economic security and understanding—we can say, and God knows we must sincerely and devoutly say in Lincoln's words, "We are not enemies, but friends. We must not be enemies. Though passion may have strained it must not break our bonds of affection. The mystic chords of memory . . . will yet swell the chorus of the union when again touched, as surely they will be, by the better angels of our nature." We have no right to believe the Kent State four died for less than that. We have no right ourselves to live for less than that.

LEST WE FORGET

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. MILLER of Ohio. Mr. Speaker, in a land of progress and prosperity, it is often easy to assume an "out of sight, out of mind" attitude about matters which are not consistently brought to our attention. The fact exists that today more than 1,550 American servicemen are listed as prisoners or missing in Southeast Asia. The wives, children, and parents of these men have not forgotten, and I would hope that my colleagues in Congress and our countrymen across America will not neglect the fact that all men are not free for as long as one of our number is enslaved. I insert the name of one of the missing.

Pfc. Prentice Wayne Hicks, U.S. Army, XXXXXXXXXX Huntsville, Alabama. Single. The son of Mr. and Mrs. Prentice E. Hicks, Annisville, Ala. Graduate of Butler High School, Huntsville, Ala. Officially listed as missing March 25, 1969. As of today, Pfc. Hicks has been missing in action in Southeast Asia for 779 days.

A TRIBUTE TO EXCELLON INDUSTRIES OF TORRANCE, CALIF.

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. ANDERSON of California. Mr. Speaker, next Monday, May 17, the Department of Commerce will present its "E" award for excellence in the area of export trade to Excellon Industries of Torrance, Calif., for its outstanding work in developing a new area of exports to nations in Europe and Asia.

While receiving such an award is commendable in itself, there are several aspects of the specific example of Excellon Industries which are particularly praiseworthy.

The equipment which Excellon Industries is producing for export is the extremely precise machinery which is employed in the manufacturing of circuit boards for the electronics industry. This comparatively small firm, with a total of only 130 employees, was the first company in the Nation to develop an export market for this type of equipment. By 1970, overseas sales of this machinery had grown to \$3.5 million—approximately one-half of the total sales volume of Excellon Industries.

At a time when the stability of the dollar is threatened by the adverse balance of trade, the development of a new area of export in which the United States can enjoy a sizable, favorable balance of payments is indeed significant. Although Excellon Industries was the first, and is still the largest in export sales volume, many other firms are now adding to this favorable trade balance with other nations.

Another highly commendable aspect of the approach taken to overseas sales by Excellon Industries is the manner in which the firm has established the corporate structure of its overseas outlets. In England, for instance, the company is operating as a California corporation licensed to do business in the United Kingdom rather than as an English corporation. As a result, a far greater percentage of the profits from overseas sales are allowed—under English law—to be returned to the United States. Also significant is the fact that the company, under this structure, pays a higher percentage of the taxes on its profits to the United States and the State of California rather than to the Government of Great Britain.

Excellon Industries also operates wholly owned subsidiaries in Germany and Holland and has just completed negotiations of its first contract in Hungary.

Again, there is significance in the approach which the firm is taking in its dealings with nations of the Soviet bloc. The firm is intentionally limiting their sales of machinery in those areas to types of equipment which is growing obsolete in the American market. Let me quote the reasons expressed by Edward F. Phillippi, executive vice president of Excellon Industries:

Certainly any type of machinery can have at least some strategic value, and we certainly would not want to do anything that

would jeopardize the defensive capabilities of the United States. However, if we do not serve the market in these Eastern Bloc nations, our competitors in Europe will. So, we are offering them equipment which is not as precise as that we are now developing for American electronics industries and for our other overseas customers. It will meet their needs, but will not place the United States at a competitive disadvantage.

The equipment which will be sold to nations in the Soviet bloc is presently limited to manually operated machinery, while in the United States, the firm is marketing numerically controlled equipment that can be as precise—or even more precise than the use of jig borers.

At a time when unemployment is growing in aerospace, computer, and defense industries generally, Excellon Industries should be commended for the manner in which it has aggressively sought new markets abroad and maintained its employment levels at home.

Mr. Speaker, I believe that Excellon Industries, its president, Joe Smith, and the other far-sighted management leaders of this firm deserve commendation for their outstanding service in opening a new area of exports for American manufactured goods.

SUPPORT GROWS FOR LEGISLATION TO PROTECT OCEAN MAMMALS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. FASCELL. Mr. Speaker, I am proud to be one of the sponsors of H.R. 8105 which would prevent the cruel and inhumane treatment of ocean mammals by making the slaughter of any ocean mammal by any United States citizen or corporation a criminal offense.

Ocean mammals protected under this legislation would include manatees, seals, whales, walruses, sea otters, sea lions, polar bears, porpoises, and dolphins.

The bill would also ban the import of products from these animals and would call for the United States to initiate an international treaty to stop the killing of ocean mammals. In addition, it would designate the Pribilof Islands of Alaska as a sanctuary for seals, sea lions, birds, and other wildlife.

It is encouraging that the need for this humane legislation has been recognized by a growing number of Americans. I would like to call the attention of our colleagues to an editorial which appeared in the May 3d edition of the Key West citizen and which speaks eloquently in support of the bill:

The text of the editorial follows:

OCEAN MAMMALS RATE PROTECTIVE MEASURES

Americans revolted by the massacre of baby harp seals, the threatened extinction of whales, and the killing of polar bears have a golden opportunity to translate their justifiable outrage into direct action.

An incensed citizenry can strike a telling blow against the brutality and needless slaughter by writing their representatives in Congress, demanding they vote for the Harris-Pryor Bill of Rights for Ocean Mammals,

it has been brought to our attention by Friends of Animals, Inc., an organization with headquarters in New York City.

Jointly sponsored by Sen. Fred R. Harris (D.-Okla.) and Rep. David Pryor (D.-Ark.), the bill would:

1. Make it a criminal offense for any American to kill seals, polar bears, whales, sea lions, walrus, or any other ocean mammals.

2. Ban the importation into the United States of all products from ocean mammals, thus removing the economic incentive for their slaughter.

3. Phase out the seal kill on our Pribilof Islands without abrogating the current treaty with Japan and Canada. The United States now agrees to kill seals on land for those two countries in exchange for which they prohibit their nationals from killing seals in the open waters. The treaty, which expires in 1976, gives Japan and Canada the option of accepting their shares in the annual kill in dollars—as they have done in past years; or, if they insist upon the skins, the Aleuts will kill 18,000 seals for them each year until 1976.

4. Direct the United States State Department to initiate a truly international treaty in which all countries agree to stop killing ocean mammals, both on land and at sea.

The governments of the United States and Canada must be told by their employers—the public—that barbarity which stuns the minds and sickens the hearts of all decent people must be outlawed.

Right now is the time to push for passage of the Harris-Pryor Bill—which bans slaughtering the 42,000 seals usually clubbed for the purported benefit of the U.S. Treasury—before the next Pribilof kill begins the end of June.

A copy of the Harris-Pryor Bill may be obtained by writing Friends of Animals, 11 West 60th Street, New York, N.Y. 10023.

Right now, during observance of Be Kind to Animals Week across the nation, would be a good time to make your thoughts and wishes known with regard to the bill.

Even if you can't adopt an animal from the Humane Shelter on Stock Island, you can nonetheless demonstrate that you, too, are a humane person by helping protect these ocean mammals.

SAINT MARIA GORETTI HIGH SCHOOL IN HAGERSTOWN, MD. PRODUCES "CAMELOT"

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. BYRON. Mr. Speaker, the last week of April, the drama club of Saint Maria Goretti High School in Hagerstown, Md., produced Lerner and Loewe's musical, Camelot. I would like to commend the drama club and its members for an outstanding production. I had a chance to see the play and found it a very professional job.

The play was directed by Sister Mary Sharon. The musical director was Mr. W. L. Makell, and the choreographer was Mrs. Donald Brugh. I would like to congratulate all of them on a job well done. The principals in the cast were Joseph Brugh, Susan Reynolds, Kevin Murray, Patrick Thomas, Lynn Noonan, Ellen McEwen, Thomas Warren, Christopher Anderson, Daniel Dwyer, John Stang, John Sokol, John P. Miller, Richard Nairn, Maria Dovi, Jane Dwyer, and Steven Sokol.

A PLEA FROM BANGLA DESH

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. REES. Mr. Speaker, I received this message addressed to all Members of Congress from the Bangla Desh League of America.

Because of the text's special significance, I am inserting it in the RECORD at this point:

BANGLA DESH LEAGUE OF AMERICA,
Washington, D.C., April 27, 1971.

To the Honorable Members of the Congress of the United States:

In December 1970, for the first time in its brief history as a nation, Pakistan held free and fair elections at the provincial and national levels. The national elections were designed to produce a constituent assembly which was to prepare a national constitution as a step toward the restoration of democratic government, absent from the country since 1958. The peoples of East Pakistan, or what is now called Bangla Desh, gave their overwhelming support (167 out of 169 seats for East Pakistan in the constituent assembly) to one party, the Awami League. The League, under Sheikh Mujibur Rahman, had pledged to work for a national constitution which would grant more autonomy to the province of East Pakistan, as a principal means of bringing an end to politico-economic discrimination against its citizens. And, as a result of this overwhelming support, the Awami League became the majority party in the constituent assembly, by virtue of which it would have been able to formulate a constitution of its choice. Nonetheless, for two months prior to the outbreak of violence, and before any convening of the assembly, Sheikh Mujibur attempted to work out a consensus with the leader of the principal minority party, Z. A. Bhutto, and Pakistani President Yahya Khan. Without warning on the night of March 25, 1971, the negotiations were abruptly ended by premeditated military attacks against civilians, especially intellectuals, students, and political elites of the province.

For more than a month now, the Government of Pakistan has been using brute military force to suppress a non-violent democratic movement in Bangla Desh. The Pakistani army has committed without discrimination acts of atrocity against the civilian population of all ages and both sexes, resulting in casualties ranging somewhere between 200,000 and 1,000,000 persons. Contrary to the original intention of the American military alliance with Pakistan, the weapons and military supplies acquired through this alliance have been used against citizens of the country—not a foreign enemy. These acts of genocide transgress all values which the civilized world has come to classify as basic human rights, and especially the right of life.

By virtue of its military assistance to Pakistan, the United States has indirectly become a party to this instance of egregious inhumanity. And, while the United States cannot be expected to intervene to stop the Pakistani Government from using these weapons, it can take several measures which may help to stop the bloodshed and create a political community in that region which would be most consistent with the wishes of the Bengali people and restore political stability.

The measures are as follows:

1. Diplomatic recognition of the Government of Bangla Desh.
2. Proscription of all economic and military assistance to Pakistan until the violence has ceased and the legitimate aspirations of the Bengali people are realized.

3. Adoption of measures in conjunction with other nations, the United Nations, and international relief agencies to arrange and assure the delivery of food, clothing, and medical supplies to the victims of the atrocities; and the adoption of all other possible steps which may be required to assure relief and rehabilitation of victims in Bangla Desh and Bangla Desh refugees in India.

4. Diplomatic efforts to influence the Government of Pakistan to end the atrocities immediately and to recognize the rights of the Bengali people.

The Pakistani armed forces may have gained the upper hand in the fighting thus far; but the legitimate aspirations of 75 million people are destined to prevail, American interests would be served best if the violence were stopped immediately and the justifiable rights of the Bengali people recognized. Otherwise, prospects for a stabilized region are non-existent. And, there is a possibility that the Bangla Desh movement, presently under leadership of the democratic Awami League, might fall into the hands of radical leftists elements.

CHAIRMAN PASSMAN PINPOINTS EXCESSIVE U.S. EXPENDITURES ABROAD IN MANY PROGRAMS

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. EVINS of Tennessee. Mr. Speaker, the distinguished gentleman from Louisiana (Mr. PASSMAN), the able chairman of the Subcommittee on Foreign Operations Appropriations, has made intensive studies of expenditures abroad by the United States.

His studies point out that rather than an expenditure of some \$3.6 billion—the budget for foreign operations would indicate for next year—the real total of expenditures abroad by our Federal agencies is in excess of \$13 billion 517 million.

These expenditures are "hidden" and obscured in almost 30 programs of various kinds scattered in budgets throughout Government.

I want to commend the gentleman from Louisiana for his diligence and knowledge. This Nation owes Chairman PASSMAN a debt of gratitude for his great service in bringing these facts to our attention.

As the current monetary "crisis" abroad demonstrates we must cut and reduce foreign expenditures by the Government and under Chairman PASSMAN's leadership last year we cut and reduced the budget request by AID from \$2 billion 876 million to \$2 billion 534 million and he deserves our gratitude and thanks for this reduction in foreign expenditures.

Because of the interest of my colleagues and the American people in this most important subject, I place in the RECORD herewith summaries and analyses of foreign expenditures prepared by Chairman PASSMAN:

New requests for foreign aid and assistance
92nd Congress, 1st session, fiscal year 1972

International security assistance	\$1,993,000,000
International organizations and programs	168,000,000
Bilateral assistance	1,077,000,000

President's foreign assistance contingency fund.....	\$100,000,000
Inter-American Development Bank	500,000,000
Inter-American Development Bank (supplemental).....	486,760,000
International Bank for Reconstruction and Development (supplemental).....	246,100,000
International Development Association	320,000,000
Asian Development Bank.....	40,000,000
Asian Development Bank (supplemental).....	60,000,000
Expanded multilateral assistance	35,000,000
Receipts and recoveries from previous programs.....	370,310,000
Military assistance (in Defense budget).....	2,250,800,000
International military headquarters	74,400,000
Economic Assistance (in Defense budget).....	90,900,000
MAAG's, Missions, and Milgroups	262,600,000
Permanent military construction, foreign nations.....	106,000,000
Export-Import Bank:	
Long-term credits.....	2,445,000,000
Regular operations.....	1,195,639,000
Peace Corps.....	71,200,000
Ryukyu Islands.....	4,450,000
Migrants and refugees.....	8,650,000
Public Law 480 (agricultural commodities)	1,320,400,000
Contributions to international organizations.....	160,680,000
Education (foreign and other students).....	51,000,000
Trust Territories of the Pacific	59,739,000
Latin America highway (Darrien Gap).....	20,000,000
Total new requests, foreign aid and assistance, fiscal year 1972	13,517,628,000

New Requests for Authorization and/or Appropriation Foreign Assistance, Fiscal Year 1971

Foreign Assistance Act (mutual security).....	\$2,163,000,000
Supplemental for supporting assistance	100,000,000
Overseas Private Investment Corporation	37,500,000
Receipts and recoveries from previous programs.....	386,325,000
Military assistance (in Defense budget).....	2,260,300,000
International military headquarters	57,300,000
Economic Assistance (in Defense budget).....	117,000,000
Foreign military credit sales fund	272,500,000
MAAG's missions, and milgroups	167,300,000
Export-Import Bank:	
Long-term credits.....	2,900,000,000
Regular operations.....	1,082,096,000
Export expansion program	100,000,000
Public Law 480 (agricultural commodities)	932,500,000
Inter-American Development Bank (supplemental).....	205,880,000
International Development Association	160,000,000
Asian Development Bank.....	20,000,000
Special funds (supplemental)	25,000,000
Special funds	35,000,000
Expanded multilateral assistance	540,000,000
Peace Corps.....	98,800,000
Permanent military construction, foreign nations.....	190,200,000

Contributions to international organization.....	\$144,611,000
Educational (foreign and other students).....	45,474,000
Ryukyu Islands.....	6,952,000
Migrants and refugees.....	5,787,000
Trust Territories of the Pacific Islands.....	60,000,000
Latin America highway (Darrien Gap).....	20,000,000

Total new requests, foreign assistance, fiscal year 1971..... 12,133,525,000

Unexpended balances in pipeline from prior years for foreign aid programs, aid agency estimate, June 30, 1970

Foreign assistance (mutual security)	\$4,450,356,000
Export-Import Bank:	
Uncommitted borrowing authority	4,454,200,000
Long-term credits	3,006,000,000
Regular operations.....	345,100,000
Export expansion program	162,200,000
Inter-American Development Bank	2,259,494,000
Military Assistance (in Defense budget).....	1,330,000,000
Public Law 480 (agricultural commodities)	851,426,000
Permanent military construction overseas	448,000,000
Foreign military credit sales fund	406,215,000
International Development Association	350,000,000
Asian Development Bank.....	140,000,000
Overseas Private Investment Corporation	135,500,000
Peace Corps	27,157,000
Education exchange	26,706,000
International military headquarters	20,000,000
Trust Territories of the Pacific Islands.....	15,849,000
Economic Assistance (in Defense budget).....	15,000,000
Inter-American highway	11,152,000
MAAG's, missions, and milgroups	9,000,000
Ryukyu Islands	8,162,000
Migrants and refugees.....	4,519,000
Contributions to international organizations	3,668,000
Total	18,479,704,000

Total net foreign assistance to 123 nations and 7 territories of the world, fiscal years 1946 through 1970

(The 5 F formula: Frustrating—Fanatical—Frightening—Foolish—Factual)

Afganistan	\$375,100,000
Albania	20,400,000
Algeria	186,300,000
Argentina	385,900,000
Australia	601,000,000
Austria	1,115,800,000
Barbados	300,000
Belgium-Luxembourg	1,736,800,000
Bolivia	532,400,000
Botswana	18,600,000
Brazil	2,824,000,000
Burundi	7,400,000
Burma	83,400,000
Cambodia	341,300,000
Cameroon	33,300,000
Canada	26,100,000
Central Africa Republic.....	5,300,000
Ceylon	185,800,000
Chad	9,200,000
Chile	1,376,500,000
China, Republic of.....	4,989,400,000
Colombia	1,046,900,000
Congo (B)	1,900,000
Congo (K)	440,000,000
Costa Rica	172,900,000

Cuba	\$43,800,000
Cyprus	22,100,000
Czechoslovakia	189,500,000
Dahomey	12,600,000
Denmark	873,300,000
Dominican Republic	482,500,000
East Germany	800,000
Ecuador	277,800,000
El Salvador	131,400,000
Equatorial Guinea	300,000
Ethiopia	361,400,000
Finland	21,300,000
France	7,007,700,000
Gabon	7,500,000
Gambia	2,600,000
Ghana	277,400,000
Germany/Berlin	3,671,600,000
Greece	3,682,900,000
Guatemala	347,000,000
Guinea	115,200,000
Guyana	65,100,000
Haiti	110,900,000
Honduras	112,000,000
Hungary	12,400,000
Iceland	65,400,000
India	7,715,100,000
Indochina	1,535,200,000
Indonesia	1,126,500,000
Iran	2,003,900,000
Iraq	93,200,000
Ireland	112,900,000
Israel	848,600,000
Italy	5,296,600,000
Ivory Coast	68,900,000
Jamaica	74,700,000
Japan	3,388,400,000
Jordan	645,000,000
Kenya	67,700,000
Korea	8,104,200,000
Kuwait	36,800,000
Laos	1,017,600,000
Lebanon	90,600,000
Lesotho	10,400,000
Liberia	226,000,000
Libya	221,700,000
Malagasy Republic	13,800,000
Malawi	26,000,000
Malaysia	78,400,000
Mali	27,900,000
Malta	8,300,000
Mauritania	3,800,000
Mauritius	3,800,000
Mexico	501,500,000
Morocco	710,800,000
Nepal	140,600,000
Netherlands	1,984,200,000
New Zealand	63,800,000
Nicaragua	158,700,000
Niger	17,500,000
Nigeria	344,100,000
Norway	1,127,300,000
Pakistan	3,637,300,000
Panama	226,000,000
Paraguay	121,200,000
Peru	460,600,000
Philippines	1,866,400,000
Poland	446,400,000
Portugal	467,700,000
Rwanda	7,600,000
Saudi Arabia	71,400,000
Senegal	40,000,000
Sierra Leone	42,600,000
Singapore	37,500,000
Somalia	80,000,000
Southern Rhodesia	1,700,000
Southern Yemen	400,000
Spain	1,907,000,000
Sudan	92,000,000
Surinam	10,500,000
Swaziland	1,400,000
Sweden	144,700,000
Syrian Arab Republic.....	56,900,000
Tanzania	69,700,000
Thailand	1,488,800,000
Togo	15,900,000
Trinidad-Tobago	52,800,000
Tunisia	646,500,000
Turkey	5,520,200,000
Uganda	39,100,000
United Arab Republic.....	769,000,000

Total net foreign assistance to 123 nations and 7 territories of the world, fiscal years 1946 through 1970—Continued

United Kingdom	\$7,511,300,000
U.S.S.R.	186,400,000
Upper Volta	15,200,000
Uruguay	169,500,000
Venezuela	330,100,000
Vietnam	13,054,400,000
Western Samoa	2,100,000
Yemen	42,600,000
Yugoslavia	2,560,800,000
Zambia	7,200,000
Bahamas	32,700,000
British Honduras	5,600,000
West Indies	7,800,000
Hong Kong	44,600,000
Ryukyu Islands	406,800,000
Trust Territory of the Pacific	281,300,000
CENTO	54,600,000
W/W, regional	16,191,600,000

Total net disbursements to foreign nations, 1946-70— 131,530,600,000

Total net interest paid on what we have borrowed to give away, 1946-70— 67,858,067,000

Grand total, cost of foreign assistance, 1946 through 1970— 199,388,667,000

Of the 3½ billion people of the world, all but 36 million have received aid from the United States.

U.S. balance of payments

1950 (net deficit)	-\$1,912,000,000
1951 (net deficit)	-578,000,000
1952 (net deficit)	-1,100,000,000
1953 (net deficit)	-2,100,000,000
1954 (net deficit)	-1,500,000,000
1955 (net deficit)	-1,100,000,000
1956 (net deficit)	-1,000,000,000
1957 (net surplus)	+500,000,000
1958 (net deficit)	-3,400,000,000
1959 (net deficit)	-3,700,000,000
1960 (net deficit)	-3,800,000,000
1961 (net deficit)	-2,400,000,000
1962 (net deficit)	-2,200,000,000
1963 (net deficit)	-2,660,000,000
1964 (net deficit)	-3,006,000,000
1965 (net deficit)	-1,306,000,000
1966 (net deficit)	-2,077,000,000
1967 (net deficit)	-3,650,000,000
1968 (net surplus)	+93,000,000
1969 (net deficit)	-7,208,000,000

Net U.S. balance-of-payments deficit (20 years) 1950 through 1969— -44,104,000,000

MORE SPONSORS FOR RESOLUTION TO RELEASE APPROPRIATED PUBLIC WORKS FUNDS

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. HUNGATE. Mr. Speaker, yesterday four more of my colleagues joined me in introducing a resolution urging the President to release appropriated public works funds now held by him. This brings the total number of cosponsors to 81, representing 36 States.

My thanks to my colleagues for their support on this resolution and once again I urge the President to heed the expressed will of Congress.

A DIFFICULTY IN COMMUNICATING WITH THE POST OFFICE DURING ITS TRANSITION PERIOD

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. BURKE of Massachusetts. Mr. Speaker, in announcing the recent hearings on the transition period between the Post Office Department as we knew it and the new Post Office Corporation, the chairman of the Subcommittee on Postal Service, the Honorable MORRIS UDALL, indicated that many complaints had come to the attention of the subcommittee about the difficulties of communicating with the Postal Service during the transition period. The distinguished chairman went on to say that:

There was a feeling that undesirable barriers are being erected between the people, the Postal Service, and the Congress.

I could not agree with him more based on my own recent experience. I am perfectly aware of the criticisms leveled against the Post Office of by-gone days. I am well aware that there were numerous instances where the Postal Service suffered from too much political interference. However, I do not think it was ever suggested that all of the problems associated with delivering the mail as cheaply and efficiently as possible were entirely because of the fact that the Post Office had to account to Congress for its service. With great publicity, postal patronage and political appointments have been eliminated. The Post Office, we have been told, can now be expected to function more like any other major corporation in this country. In voting to set up the new postal corporation, I am convinced the majority of Congress went along with this and thought that efficiencies and streamlining and better mail service might have a better chance if the corporation were to function more like any other corporation in this country.

Having said that, however, I am convinced that Congress did not vote to set up a private corporation answerable only to its own shareholders and entirely motivated by nothing higher than the simple profit motive. What was established was a public corporation. Inherent in this concept is the recognition that the corporation is answerable to the public. As the representatives of the people, we in Congress have a particular responsibility to see to it that this public corporation functions in the public interest. As representatives of the people, we have a right to see that one of the largest employers in this country treats its employees equitably and does not ignore the requirements of the Postal Service we are pledged to uphold. This is not General Motors we are talking about. We are talking about a public corporation here. As representatives of the people, we have the responsibility to take an interest in the problems that many of our constituents encounter when they fail to get an appointment with the Post Office after taking the appropriate qualifying examinations. At the very least,

we have the right to receive an explanation as to why our constituents have not been given a reply to previous inquiries they have made. In other words, a public corporation has a responsibility to the public not only in delivering the mail on time at the lowest rates possible, but also maintaining and adhering to fair and equitable employment practices in view of its status as one of the largest employers in this Nation. This corporation is not just answerable to its Board of Directors, it is answerable to the people and their elected representatives, and I am afraid that certain of its directors, in particular, its former Postmaster General, have come dangerously close to forgetting this ultimate obligation they have.

When I inquire of the postal authorities as to why one of my constituents has not received a reply to repeated communications, when I inquire of the Postal Service as to why someone with a high grade on the qualifying examination seems to have been passed over in postal appointments, I expect to receive a complete explanation and not to be accused of political interference. When I have been informed that postmasters in my district have been given peremptory notice on mimeographed forms, not even so much as addressed to the individual involved by name, to be replaced by some new people brought into the Postal Service by the present administration, then I think I am justified in perhaps concluding that all we have done is to replace one kind of politics with another. Speaking for myself, I can truthfully say without reservation that I did not—and I seriously doubt that many of my colleagues could have—voted for a Postal Service that would, in fact, be completely beyond a Congressman's rights of inquiry into individual cases that have been brought to his attention by his constituents. I did not vote to remove a branch of our Government from criticism. I do not think any of us voted to make the Post Office free from accountability for its actions.

I had been aware for some time through newspaper accounts and statements by the Postmaster General about his memorandums to the postal workers, which read like edicts from on high, that there were those in positions of responsibility in the postal service who wished to take themselves out of the political context altogether, especially where criticism was involved. Postal workers were told that they were no longer to approach their Congressmen with their grievances, no matter how legitimate. But in view of the denials of the Postmaster that such was his intent, I felt that he was recognizing the errors of his ways and had backed down. But apparently this is not so. Now, when I do get letters from constituents in the employ of the post office, I get them marked "personal and confidential," many of them are unsigned, and all of them beg me not to reveal their name when communicating with the postal authorities in Washington. If I now want a firsthand report of why mail is being delivered at 4 o'clock in the afternoon to a constituent, I must write to the post offices in my district in plain brown envelopes

so as not to reveal my identity lest I get the postmasters in trouble. To get a firsthand report on a situation from local post offices is now like getting a wartime message through courier and the underground. The time has come for me to speak out and criticize this development before it takes root and takes hold from lack of criticism. I am tired of communicating with congressional liaison in Washington to have the matter referred back to my district where, in turn, it is referred back to congressional liaison, which in turn gets in touch with me. If any of my constituents write to me about problems they are having with the mail, I do not feel that I should cost them valuable time by going through these absurd official channels. As a Congressman, I demand the right to represent my constituents where a public service is involved and get to the root of the matter as soon as possible. That means going to the source. And yet I hesitate to do this because the men I contact could lose their jobs under this new regime. What irony. Those who attempt to get effective results under the new Postal Service are penalized and reprimanded, and yet that is just what the new Postal Service was supposed to provide. Those of us with any experience in public service always knew how to cut through the redtape in the old post office. This new Postal Service threatens to be a monolithic and impregnable bureaucracy which can only speak with one voice through one officer at the top in Washington. Is this the monster that we intended to create? I do not think so.

Just the other day, I made a routine inquiry on behalf of a constituent who complained that he desperately needed a summer job and time was running out and he had heard nothing from the Post Office. Now to receive a refusal is one thing—and in this case, that is just what I received. But to add to injury, I was also sent a copy of Blount's latest edict in which he informs postal workers, and presumably myself, that henceforth any postal worker writing to a Congressman on any matter was liable to lose his job. Mind you, I was not even writing about someone yet working for the Postal Service. I was simply inquiring about the status of a needy applicant who was applying for a postal position. It was then that I determined that I would make my voice heard.

I refer you to Postal Bulletin 20805, dated March 11, 1971, prohibiting political recommendations. This bulletin has the arrogance to say that letters of recommendation can only be requested by the Postal Service. Why should postal workers be penalized more than any other Government workers, or prospective applicants for postal work be penalized more than applicants for any other position? As a leader in the district I represent, it is only natural that a number of families turn to me for a letter of recommendation. If I feel the recommendation is merited, I make the recommendation. Why is the new Postal Service so afraid of a Congressman's expressing his interest in an applicant? If they are on solid ground, they can ignore the recommendation with im-

punity. If the case has merit, then the appointment should be made with or without a Congressman's recommendation. About the only thing I see a Congressman's recommendation guaranteeing is a fair hearing, in other words, the case will receive proper consideration. Whether we like it or not, our constituents expect a Congressman to act as ombudsman with the mighty concentrations of power centered in our Federal agencies. The only thing I can conclude is that the Postal Service does not want to be reminded that they should be giving each and every case proper consideration. In other words, they say they want to operate without congressional interference, when what they really mean is that they want to do as they damn well please.

In conclusion, Mr. Speaker, I am convinced that if the Postal Service and the present administration, which has overseen its creation and appointed its directors, was really interested in taking politics out of the Post Office, then they would have left Mr. Blount out of the picture. Who is kidding whom? Mr. Blount is one of the most political creatures in this city of political creatures. How do you get politics out of a new Postal Service when an old political appointment is chairman of the new postal corporation? All I have seen happen is that Democrats have been removed and "nonpolitical" types brought in by Blount, appointed to fill their places. I hasten to add I use the word nonpolitical facetiously. In the process, Postmaster Blount has been transformed into "Captain" Bligh, strutting about issuing edicts, insulating himself from the outside world, and demanding the right to be the supreme law in his new kingdom. I think it is time we serve notice on "Captain" Blount and resolve to be serious about taking politics out of the Postal Service. Then maybe I could believe what they say about the new reforms. This man has displayed arrogance at every turn when this body is concerned. He finds sections in the enabling legislation to permit him to act in a highhanded manner, but then ignores sections of the legislation that indicated that the Post Office Department has no right to raise rates while requested rate increases are still under consideration by the Postal Rate Commission. The courts yesterday went along with this on the grounds that that legislation does not become effective until July 1. Talk about taking advantage of a loophole, of defeating the intent of Congress, about interpreting the law to suit your own purpose.

My mail indicates that the Postal Service is far from satisfactory and that there is plenty of room for improvement. That is what the new Postal Service reform really is all about in the end. I thought we would have some improvements before anybody was requested to pay more to have their mail delivered. Instead, we have put the cart before the horse once again and raised the rates before the service is improved. If that is an example of running the Post Office like a business proposition, then let us be honest and admit that if this were a private business with competition, it would not

survive for long. It would lose its customers. Since we have handed the Postal Service its customers on a silver platter and to some extent they have a captive audience, then we have the responsibility to see to it that the Post Office gives us a complete and full accounting at every opportunity of their actions. So far, the only improvement I have observed is a characteristically political move on the part of General Blount, to offer Congressmen better mail service to their constituents. I would rather my constituents receive the better mail service.

Mr. Speaker, I could go on, but I think I have indicated my main grievances for now. Hopefully, the hearings will lead to a resolve by Congress to reassert its authority over the Postal Service of this Nation and to serve notice to General Blount that there is no place in this Government for privileged rule free from the normal restraints of the political process.

ARMED FORCES WEEK

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. BAKER. Mr. Speaker, the patriotism of the people in the Volunteer State is well known. Pride in our Armed Forces is an integral part of that patriotism. Characteristic of how Tennesseans feel is the annual Armed Forces Week observance in Chattanooga. Many communities observe Armed Forces Day, but there are not very many which allocate a week in honor of the forces which guard and maintain our national security.

An editorial in the May 11 edition of the Chattanooga Times on "Armed Forces Week," cites some of the highlights of this year's observance, the 22d annual observance in Chattanooga. I am proud of the way Chattanooga lets its feelings be known when it comes to our Armed Forces. I am pleased to place this editorial in the RECORD:

ARMED FORCES WEEK

A lot of cities, towns and hamlets across America hold an Armed Forces Day celebration annually. But few, if any, hold one of the magnitude of Chattanooga.

And, here, it's not just a day. It's a week—Armed Forces Week; a many-faceted observance with spit-and-polish pride in our military and humble gratitude for our heroes, living and dead.

A memorial to the 160-plus area men who have lost their lives in Vietnam will be fittingly unveiled and dedicated on Thursday afternoon at Lovell Field.

Spokesmen for the Thursday program say that President Nixon has urged the Adjutant General to provide a "crippled wing" flyover of military planes to mark a dramatic close at 3 p.m. of the program which begins at 2.

Then Friday is "the" day, the time for the award-winning parade and the 22nd annual pomp and ceremony downtown.

It is appropriate that the speaker and reviewing officer for the finale to the week's observance will be Lt. Gen. Albert O. Connor, commander of the 3rd U.S. Army, Ft. McPherson, Ga.

Gen. Connor was one of the nation's top

planners in the cold war defense of Europe and a ranking tactical commander in World War II.

A salute to Gen. Connor, to the planners of the patriotic week and to a city which never fails to let its feelings be known.

SERIOUS AMERICANS

HON. ELFORD A. CEDERBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. CEDERBERG. Mr. Speaker, for some time now we have been hearing the architects of the international policy of the sixties condemning the President for his Vietnam policy. These confessions intrigue all of us, I am sure. A recent article by William F. Buckley, Jr., serves to highlight some of the inconsistencies which characterize the public statements of these people.

In the interest of providing my colleagues with some insight into a few of the more complex historical facets of the question I hereby submit the article for their consideration:

ARTHUR SCHLESINGER—AN EX-WHAT?

(By William F. Buckley, Jr.)

Every 10 years or so, I meet with Prof. Arthur Schlesinger Jr. in public debate, an experience I always find instructive, which is to say nothing of what Mr. Schlesinger must find it.

This time around hostilities began early, when Schlesinger, making his way aft to the economy section of the New York-Boston flight, paused briefly to tease me for sitting, typewriter on my lap, in the first-class section. I retaliated, after we were under way, by asking the stewardess to deliver a package into which I had rolled a cigar, with the notation: "Arthur: This is my contribution to your last meal."

After we landed at Boston, Schlesinger told us that now he knew what was wrong with conservatives, they smoke such lousy cigars. I replied that we were given no choice by those who bungled the Bay of Pigs.

I confronted Schlesinger, during the debate, with the resolution of the Americans for Democratic Action, which called for the impeachment of Richard Nixon. He told the crowd he knew nothing about the resolution, although he did not contest that he continues to serve as vice chairman of the ADA. And managed to make it all sound as though I had made up the resolution. Tricky Arthur.

Schlesinger spent, as I expected, much time in the fashionable denunciation of the Vietnam war. In anticipation of which I poked around and culled a few statements concerning that war, which as an amateur historian I make available.

It is, for instance, surely relevant to note, the week after the prestigious ADA decides to impeach Richard Nixon, the plank of the Democratic party platform on the subject of Vietnam? The Democratic candidate, Hubert Humphrey, ran on a Vietnam plank, approved by the delegates in Chicago in the summer of 1968, that said.

"Our most urgent task is to end the war in Vietnam by an honorable and lasting settlement which respects the rights of all the people of Vietnam . . . We reject as unacceptable a unilateral withdrawal of our forces which would allow that aggression and subversion to succeed." It is perfectly honorable to change one's mind. But it is surely something less than that to go about asking

to impeach Richard Nixon because he seeks to implement the plank of the Democratic platform of 2½ years ago.

There are those who will say that the Democratic plank at Chicago was substantially different from true Democratic sentiment at Chicago, because Mayor Daley ran the show. But what was being said during that general period about Vietnam by the opposition: By Arthur Schlesinger, for instance?

In 1967, his views were solicited for a book of opinions on the Vietnam war. He wrote: "It seems to me meaningless to ask whether one is 'for' or 'against' the American intervention in Vietnam. That intervention, for better or for worse, is a fact. The real question today is whether one is 'for' the immediate termination of that intervention or 'for' its continuation until a negotiated settlement can be achieved. On this question, I am for a negotiated settlement."

And wait, there is more: "Obviously the Viet Cong and Hanoi will not negotiate so long as they think they are going to win. Since a military stalemate is the self-evident and indispensable precondition to negotiation, the continued presence of American troops is plainly necessary."

Does that make Arthur Schlesinger, vice chairman of an organization that wants to impeach Richard Nixon for believing exactly the same thing that Arthur Schlesinger was preaching two or three years ago, a hawk? An ex-hawk? A repentant hawk? An incomplete ex-hawk? Hear what Schlesinger went on to say, concerning Laos . . .

I am opposed to unilateral withdrawal, Schlesinger wrote, for several reasons, among them: "Because of the effect it would have in neighboring countries, especially on the gallant struggle of the Laotian nationalists under Prince Souvanna Phouma to maintain their independence. Also I find something distasteful about those sitting in ease in Europe and America who would righteously hand over a country to a tough Communist crew on the ground, evidently, that though they wouldn't much like communism for themselves, it will be just great for the Vietnamese."

Yes indeed, Schlesinger was pretty emphatic on these points those days. Later in 1967 he wrote, "No serious American . . . has proposed unilateral withdrawal." Question: Is Sen. McGovern a serious American? He proposes exactly that. Are Schlesinger's colleagues in the ADA, who want to impeach Nixon, serious Americans? Indeed, is Arthur a serious American?

POLISH CONSTITUTION DAY

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. MADDEN. Mr. Speaker, the month of May each year reminds all the Polish people whether living in Poland or in other nations throughout the globe, of the most illustrious day in Polish history—the adoption of the May 3 Constitution in 1791.

People of all nationalities who believe in liberty, freedom, and self-government, on this anniversary—the day of the Polish Constitution, have a feeling of admiration and pay tribute to the Polish people for that great period when they possessed a free government.

In the 18th century, Poland became the victim of the aggression of powerful

neighbors. These tyrannical neighbors of Poland regarded the Constitution of 1791 as a threat to their interests and proceeded to curb Poland's new form of democracy.

From 1790 through the 1800's, Poland's spirit of liberty rose in revolt against her oppressors on five different occasions. Even during the time of these enslavements, the Polish army, including its famed cavalry units, displayed military power which became universally known. The great fighting spirit of Poland under the guidance of outstanding military leaders were guarding Europe against its non-European invaders long before the discovery of America. These armies of devoutly Christian Polish soldiers fought with double courage and bravery, because they were defending the sacred cause of the church and the righteous cause of Poland.

During her dark days of oppression, numerous Polish patriots went beyond her borders to fight for liberty in other lands, and particularly, in our own Revolutionary War. Many Poles fought and gave their lives for our freedom thereby leaving America forever in their debt. Two of these great Polish military leaders stand out in the minds of all Americans: Gen. Casimir Polaski long has been revered as the military genius who organized our cavalry forces and contributed great help to our victory and independence. Gen. Tadeusz Kosciuszko is equally well known as another great son of Poland who fought as a leader in our Revolutionary War and subsequently returned to his native land to fight for Poland's freedom.

In 1919 Poland succeeded in blocking Russian imperialism similar to her victory of 150 years earlier. This time it was Lenin and the powerful scourge of communism that the Polish army defeated. The 1920's and 1930's saw an independent and free Poland accomplish miracles in demonstrating to the world her talents for liberal self-government and freedom for her people. During this period, Poland developed her natural resources, expanded her agriculture, brought prosperity to the farms and cities by building factories, gave millions employment. By the time World War II broke out, social and labor legislation had progressed and advanced so far that the working men and women were contented and prosperous. Transportation facilities multiplied. Historically, Poland had a great tradition in education. However, during the 19th century, enslavement by foreign powers resulted in a serious decline of schools and teachers. From 1919 to 1939, the elementary school construction was extensive and pupil attendance increased to 4,850,000. Throughout the nation, numerous nurseries, libraries, and hospitals were built and provided with nurses and doctors. No nation in the world's history showed such great progress in self-government in the short time of 22 years.

The history of Poland, from 1939 to the present day, is known by all Polish people and everybody in the world who is familiar with Communist tyranny.

The future for Poland and other en-

slaved Communist countries looks much brighter today than at any time in recent years. The economy of the two major Communist tyrants—Russia and China—has been a failure. The agriculture programs in both of these vast nations have been unsuccessful, and millions are discontented, starving, and eventually will rise and overthrow their Communist leaders who have kept them enslaved. History over the centuries has revealed that the most powerful of tyrants cannot inflict their tyranny permanently upon humanity.

MUSIC AND ACHIEVEMENT

HON. FRED SCHWENGL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. SCHWENGL. Mr. Speaker, on May 1, 1971, the guest editorialist in the Davenport Times-Democrat was Ralph Paarmann. Mr. Paarmann is an experienced and well-respected music educator.

His editorial, entitled "Music and Achievement," gives all of us something to think about.

The editorial follows:

MUSIC AND ACHIEVEMENT

Ah, the aesthetic values of music—music as a release from tensions—music as a fine use of leisure time. You've heard them all—they are all generally accepted concepts. However, the following is an idea that I have long held to be true, and it is set down very well in this excerpt from the introduction of the book, "Growing Up With Music," by H. Hunter.

"When parents encourage their children to be music-minded, they make an investment that will yield dividends for a lifetime. Psychologists and musical educators have proved that the study of music has a beneficial influence in the training of the mind. Children who enjoy music rate higher scholastically and develop more active imaginations and greater qualities of leadership. In a poll of 200 American college and university staff members, 196 considered that youngsters with some musical training were definitely superior to those who had no experience with music. Music is often the first artistic activity which makes a child realize that he must work hard to get what he wants. A musically trained child has been trained toward split-second accuracy. Self-control is mastered; the senses of sight, hearing and touch are each developed to a high degree. Musical training develops concentration and memory, qualities which will be much needed in the child's later life and career."

This week marks the 48th annual observance of "National Music Week," sponsored by the National Federation of Music Clubs. The theme is "Joy of Service Through Music." For the purpose of the following, I would like to consider this the "Joy of Accomplishment Through Music." I feel that accomplishment is the key word to the tremendous appeal of music—indeed I feel that accomplishment is a key word in any line of endeavor.

I could go on and on with regard to music because I am quite infatuated with the subject, but right now I cannot resist the temptation to digress and write about everyone's personal accomplishment whether it be in music or in just our daily living.

The only thing lasting in our memories is something connected with personal accomplishment—individual achievement. When you hear someone refer to "the good old days," you can rest assured that the person is remembering an active time in his life which was filled with personal accomplishment. Be active—stay active—abhor apathy—fight to maintain a zest for living. To those who might complain on occasion of having too much to do, there can only be one thing worse, and that would be to not have that much to do.

On one side we have such words as apathetic, lethargic, indifferent; on the other side such words as active, industrious, enthusiastic, inquisitive. On which side do you live? If you suspect that you are on the indifferent side, then turn off the television set and only turn it on when there is a program that warrants your time and attention. In the many free hours you will have, you can become the active, industrious, enthusiastic person that you potentially are. And to our older friends, let us never say "retire"—as a matter of fact we should take the word out of the vocabulary and call it a "forced change of interests." I fear that too many people "retire" much too early from living a rich, rewarding and active life.

MEMORIAL SERVICE FOR THE INDOCHINA WAR

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. SEIBERLING. Mr. Speaker, perhaps one of the most significant actions during the recent series of antiwar protests was the Memorial Service for the Indochina War Dead in Washington Cathedral on Friday night, April 23. The service was sponsored by the Concerned Officers Movement, a nationwide organization of active duty officers from all branches of the Armed Forces.

Among the 3,000 people in attendance were several hundred Vietnam veterans and over 400 uniformed active duty servicemen, including many enlisted men. Most of them were young people, but there were also many older people, including myself. The service was moving and dignified, a beautiful blending of conventional religious form and newer cultural expressions. I was delighted to see that our distinguished colleague, BOB DRINAN as one of the clergymen leading the service. He made a brief but forceful sermon on our Nation's moral obligation to make reparations for the terrible destruction it has brought upon the land, the people of Indochina.

The fact that this group of antiwar officers chose to express their concern and penitence in a religious service says something about the character of their movement and their leadership.

A White House spokesman had stated that the President considered the wearing of uniforms to this religious service perfectly legal, but many of those 400 people had received subtle threats and promises of harassment from their commanding officers if they chose to appear in uniform that night. Some had even been given direct orders, in violation of

the decision of the Commander in Chief, not to wear their uniforms. However, the military has always encouraged members of the military to wear uniforms to religious functions. The memorial service had been planned by the Concerned Officers Movement to be a religious service, notwithstanding the efforts of the military to characterize it as a political rally.

The purpose of the service was to honor the memories of the 50,000 Americans and the hundreds of thousands of Asians who have lost their lives as a result of the Indochina conflict. That the service was planned and attended by members of the military was symbolic of the fact that the brothers of those who worshipped in the Cathedral on April 23 were the instruments whose hands had snuffed out many of those lives. They mourned for those who were dead, and they mourned that they had for too long been silent, acquiescing partners in the mistaken enterprise which brought about these deaths. But most of all, they mourned because every one of these deaths was unnecessary, the product of an ill-conceived American policy.

As the public consciousness of the Indochina war has been heightened, and as members of the military have learned from the Calley verdict that they will be held personally responsible for their actions in that war, there has been a rapid growth in the breadth and depth of GI opposition to the war. The Memorial Service for the Indochina War Dead was indicative of this dramatic growth, as hundreds of servicemen risked harassment, courts martial, or punitive reassignments to demonstrate their sincere conviction that the country they love has strayed wildly from the course the Founding Fathers bravely charted 200 years ago.

The memorial service was led by an ecumenical group of clergymen including the Rt. Rev. J. Brooke Mosley, president of Union Theological Seminary; the Rev. Channing E. Phillips of Washington, D.C.; and the Rev. ROBERT F. DRINAN, Congressman from Massachusetts. Rabbi Balfour Brickner was unable to come, but sent a statement which was read during the service. Music for the service was provided by Pete Seeger and Peter Yarrow. The Rev. William Sloane Coffin, Jr., chaplain of Yale University, delivered the main sermon, one of the most eloquent I have ever heard. While I do not agree with his observation that what we have in America today is what we deserve, I believe his sermon is, on the whole, so right, so compelling, and so challenging it should be preserved as part of the CONGRESSIONAL RECORD. The sermon follows:

SERMON OF REV. WILLIAM SLOANE COFFIN, JR.

Dear sisters, dear brothers, particularly Gold Star mothers, you in uniform who knew that this was a religious, not a political, demonstration. And all you veterans who testified so eloquently this week. This service is entirely proper as long as we remember that it is entirely inadequate. For death is too great a mystery, and the sorrow it brings too immense ever adequately to be expressed in any liturgy. And what can we say when the dead number hundreds of thousands, and

when each death is a totally senseless one? What can we say to any here tonight or to those across the nation who mourn a son, a boyfriend, or brother? There was a time when we could say *Dulce et decorum est pro patria mori*—"How sweet, how fitting to die for one's fatherland," but not any more.

And what can all of us say across the Pacific to the millions of mourners in Viet Nam, south and north, in Cambodia, in Laos? What can we say when almost the entire surface of their lands is soaked with the tears and the blood of the innocent? Any expression of anguish compared to the fact of their anguish is as a lightning bug to the lightning. No songs, no words—words even of scripture and of prayer—can begin to fill the hollow in the heart of those who mourn tonight the dead in Indochina.

And yet it would be wrong to dwell on the sorrow. The dead themselves do not wish to be held close by grief alone. And if the dead are lost to us, happily they are not lost to God. Happily God can still do for them what we did not have the grace to do. We know little of what lies beyond the grave, but we know Who is beyond, and if the dead are in the hands of God, are we to grieve for them?

It would also be shameful to dwell on shame, for it is not our guilt, but our responsibility that is called for.

Two years ago, Mrs. Ransom, the mother of a son killed in Viet Nam, chained herself to a draft resister on the steps of the induction center in Whitehall in New York City. Said Mrs. Ransom, "When my son was killed, President Johnson sent me a telegram in which he said my son had not died in vain. But I stand here today to say to the President and to all my fellow Americans that my son has died in vain unless his death helps bring us all to our senses."

The dead need not have died in vain, if their deaths bring to this nation a new birth of freedom. For many if not most Americans today are not free. They do not think freely, feel, or act freely. For too many Americans, freedom is little more than a slogan that has made it all right to kill Southeast Asians who presumably had less of it than they do. And the terrible thing is that when, upon occasion, these Americans chance upon a truly free American—a draft resister, a Dan Berrigan, a David Harris, a Viet Nam Veteran Against the War, a Lt. Font—the terrible thing is that their instinct is not to get their freedom but to take it from them.

We are beset by an ancient problem: freedom is the hardest psychological and moral burden man is called upon to bear. And that is why we have an increasingly oppressive government—we want it that way.

Let us make no mistake. The American people are represented in Washington none too wisely, but all too well. Democracy is a form of government that does not guarantee the good life; it guarantees only that a nation gets what it deserves. And what we have in America today is what we deserve.

It was not always this way. Almost two hundred years ago, when this nation had its first birth of freedom, when the entire population of this country totaled three million people (less than Los Angeles County today), we turned out a generation of statesmen named Washington, Hamilton, Franklin, Adams, Jefferson, and you could name a list as long as your arm. But today, with a population sixty times more than ever before in a world more and more able to slit its own throat in less and less time, how many are there on the public scene of the caliber of that first generation of statesmen? And why are there not more? Because what's honored in a country will be cultivated there.

Today we see truth divorced from power, might from right. And in this divorce we see the heart of this nation's corruption.

Yet, this nation is also in travail—a strange compound of fearful practice and great ideals,

of desperate anxiety and calm assurance, of fearful clutching of possessions and a new bright wave of generosity.

I feel this nation is going to have a new birth of freedom, because there are just enough men and women in this country who recognize the gravity of the situation and the decisions that it dictates. The first decision is obvious—to speak truth to power, the way the veterans have been doing all week. For this war quite simply is a product of lies, of murder, of conscious deceptions and unconscious self-deceptions. For years, presidents have lied to themselves, the press, and the public, and in turn have been lied to by the State Department, the Pentagon, and the C.I.A. For years we have been told that we are helping a friendly nation repel a foreign enemy attack. In fact, through bitter personal experience, our soldiers learn that they are engaged in a war against South Vietnamese people. We have been told that we are producing a peaceful, prosperous, democratic society. In fact, we are producing massacres, desolate landscapes, and squalid detention camps. We have been told the Saigon Government is representative. In fact, it represents so much corruption and is so unpopular that it has nothing to win and everything to lose in the Paris Peace Talks.

And now the President tells us that America must not become a pitiful, helpless giant?

Hasn't the Nixon Administration read the minutes of the meetings of the Johnson Administration? Yes! But our leaders are what the Bible calls "false prophets." According to Martin Buber: "False prophets are not godless; they adore the god of success. They themselves are in constant need of success and achieve it, promising it to the people. But they do not honestly want success for the people. The craving for success governs their hearts and it determines what rises from them. That is what Jeremiah called 'the deceit of their own heart.' They do not deceive. They are deceived and can breathe only in the air of deceit."

With no major industry, the nation's capital has the most pressing pollution problem in this country—an air of deceit. So we must oppose our leaders, not because we oppose them personally, but because truth is our authority, not their authority or truth.

And we must oppose them because we believe in the American people. We believe the American people are not as success-oriented as they are. We believe that the American people have the intelligence to admit national error and the compassion to do it immediately.

So let the word go forth from the mouth of every American who has the courage to say it: "This was a tragic mistake. And, if there was no honor in the beginning, there is little chance of finding any in the end. And, if this war is an unjust war, and if America has lost this war, then as was said three thousand years ago, so it must still be said: 'The judgments of the Lord are true and righteous altogether.'"

Most especially we would appeal to those who have not yet spoken out. Postmen, truck drivers, business men, labor leaders—in every walk of life there are men and women who have not spoken out and whose voices for that reason would carry greater weight than our own.

Most especially we would appeal to the consciences of the decent and troubled members of the Nixon Administration who know that this war is wrong.

The officers who first conceived of this service, and who came tonight in uniform in defiance of a JAG regulation, were willing to put something in jeopardy for their beliefs. Could not the members of the Nixon Administration do the same? Is it not time not for political, but for moral resignations? In too many recent administrations, too many officials have been mandarins to the

prince, but not servants to the American people.

I said we must speak truth to power, but the only way, as St. Paul said, is to speak the truth in love. Elsewhere he says that love suffereth long and is kind. It may be hard, but we must do it—in contending against wrong, we must not become wrongly contentious. In fighting national self-righteousness, we must not ourselves become personally self-righteous. We must hate evil, but only because we so love the good. For if we end up hating evil more than we love the good, we will simply end up damn good haters. One thing we know: if it is difficult to overcome evil with good, it is impossible to overcome evil with evil.

Lastly, we must not despair. Even if we fail, we must never behave as if our failure was morally justified. And if we are disillusioned, let us be tough minded. Whoever gave us the right to have illusions in the first place? Whoever said that the road to peace would be anything but long and stony? And what are our bloody feet compared to the dead bodies we recall tonight?

We gave to the dead our first thoughts; let us give to them our last thoughts. For in those dead bodies is the secret of how truth does speak to power.

Think again of our American dead. We sent them forth to kill for us. Now we remember only that they died for us. In other words, while power can force people, only love can move them. Only the power of sacrificial love can move people from their evil deeds to noble ones. So if the dead are finally *pro patria*, then we must be prepared to sacrifice as they did, and we must love America just as they did.

"America, love it or leave it." I believe that. But it means: America, love her—and call her to a higher standard. America, love her—and sacrifice for her. America, love her—and silence the guns and ground the bombers that so tragically have become her symbols. America, love her—and bind up the wounds of Vietnam. America, love her—and cure her rat-ridden, drug-ridden, gun-ridden cities. America, love her—and help fulfill the ancient patriots' dream that saw beyond the years, her alabaster cities gleam, undimmed by human tears. America, America, God shed his grace on thee, and crown thy good with brotherhood, from sea to shining sea." Amen.

WE NEED UNITY ON TEXTILE RELIEF

HON. JAMES R. MANN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 6, 1971

Mr. MANN. Mr. Speaker, I insert into today's RECORD a recent editorial from the Spartanburg Journal. It describes and deplores the current state of disarray that exists in the Congress and in the administration as to what we all must do to put an end to the "wasting" of our domestic garment and textile industries at the hands of oriental, slave-wage competitors. Unfortunately this political disarray comes at a time when what we need is order and unity. If we do not decide on some effective policy to save our own industries from unfair competition from abroad, this soon will no longer be a land that happily produces its own goods for its own citizens; it will become, instead, as I have said so often in these pages already, a wasteland of warehouses and distributing centers which act

merely to move from point to point the goods produced and shipped here from abroad. Will we then be able to acquit ourselves of our social responsibilities toward the poor and the sick—those favorites of the very people who so oppose any form of imports-quota legislation? It is inconceivable that we will, for a country that depends for its sustenance upon the economic whims of other countries is hardly able to care for its rich citizens, let alone for its poor. We will have come a long way, all right: All the way down from the world's No. 1 economic power to a colony of those countries whose backward economies we generously stimulated toward growth in the first place. I suggest that we begin to unify and act on the principle of putting American interests first, where they belong, in order to avert this coming calamity.

The editorial follows:

UNITY IS NEEDED FOR TEXTILE IMPORT RELIEF

Relief for the textile and garment industry from the heavy flood of foreign imports is about to be trapped in the same division of opinion which prevented congressional or administrative action last year.

President Nixon had pledged relief from imports for the textile field during his campaign for election. On taking office, he asked for time to see if something constructive and satisfactory could not be accomplished through negotiations. When this had not produced results in a little over a year, Rep. Wilbur Mills of the House Ways and Means Committee cleared legislation directing that quotas be imposed. This passed the House but failed to receive attention in the closing days in the Senate.

The Japanese textile industry has now proposed voluntary restraints on imports and Chairman Mills has tentatively spoken out in favor of this. President Nixon, this time around, says the Japanese proposals are not enough and has endorsed the enactment by Congress of legislated quotas.

Most spokesmen in the textile industry agree with the President. The Japanese offer, in their opinion, is impractical in that it calls for other exporters of textiles to the United States to join in the move. Industry spokesmen also point out that there is no provision for spreading out the imports over the entire field of textiles and that exporters would be in a position to concentrate in any area that offers them the best opportunities for sales and profits.

President Nixon has instructed Secretary of Commerce Maurice Stans to begin immediate monitoring of textile imports of all categories. This will include cottons, wools and man-made fibers and the cloth equivalents represented in garments coming into this country.

Division of thought on the part of the President, the industry and the Congress as to what action should be taken resulted in delay and final defeat of any action being taken last year. As a result, there has been a continuing loss of jobs in the closing down of mills and a reduction of work hours. The garment industry has been similarly hard hit. Throughout this region, the heart of the textile industry, the impact has been unusually severe. Leaders say that the majority of the people out of work are in that position because of the impact of imports on textiles and related industries.

The desired import quotas would affect Japan, Hong Kong, South Korea and Taiwan in the Orient and several of the European Common Market countries.

The industry is asking that imports be rolled back to 1967 or 1968 totals—before imports began to skyrocket—and that they be

increased annually by a percentage of the growth of use of textiles in this country.

The Japanese proposal would take the current level of imports as the base period—a point to which the industry strongly objects—and that imports be increased annually at the rate of either five or six per cent.

A high level conference of the members of Congress interested in seeing a fair imports quota bill enacted, Rep. Mills and representatives of the President is needed now to see if differences cannot be adjusted and one line of action be adopted. If this is not done, then the present session of Congress could adjourn with no action being taken.

REAL HOPE FOR NEUROLOGICALLY HANDICAPPED

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. HOSMER. Mr. Speaker, I would like to call attention to an organization that has been initiated in the 32d Congressional District of California by representatives from the Long Beach Area Chapter of the California Association for Neurologically Handicapped Children.

REAL is an educational foundation and developmental learning center for children and young adults who are having learning and/or behavior problems.

REAL deserves the attention and support of everyone who is concerned for the training and educating of our handicapped.

REAL HOPE FOR NEUROLOGICALLY HANDICAPPED

The parents in the southern section of Los Angeles County have long dreamed of a learning center for the evaluation and training of their Neurologically Handicapped Children to offset the deprivation which has existed in the education field, both public and private.

This year a small group of knowledgeable and dedicated parents and professionals from the Long Beach Area Chapter of the California Association for Neurologically Handicapped Children initiated legal proceedings to incorporate the REAL Educational Foundation as a charitable, nonprofit organization to establish, operate, maintain and fund a Developmental Learning Center for children and young adults having learning and/or behavior problems. Efforts to provide services for this group of children have been thwarted again and again in the past by the lack of an adequate facility, as well as funds.

A facility has now been made available by the Paramount Unified School District, and a contract has been signed with a planned opening date of June 1971.

In planning this Center REAL has been most fortunate in securing as Director Dr. Ray H. Barsch, a national educational authority in learning disabilities and handicapped children—along with a specifically trained staff.

All children with a learning and/or behavior problem, whether normal or handicapped, will be served regardless of referral or label. The target population being the child without any schooling at present, or inadequate services in his own school district.

The Center will offer individual and group instructional programs at the pre-school, elementary and secondary levels, custom designed to meet the needs of the children enrolled. Besides a full time school program,

the Center will offer after-school tutoring, parent meetings and therapy, prescriptive physical education and recreation, evaluations, teacher experience opportunity, extension courses for aides and teachers, as well as community education and involvement. This will be year 'round. In short, a multi-disciplinary or team approach to remediation where this child must learn how to learn.

It is a well-established fact that private schooling for exceptional children costs a minimum of \$200 per month for minimum services. Because parents of most disabled children are already burdened with private therapy and medical costs and are unable to pay fees of this size, it is real's hope to secure financial support from communities involved through such media as donations, gifts, legal school support (such as Sedgwick Act AB 95), D.P.S.S., probation grants (Federal and State), as well as private funding, etc.

Because there are no other national, state or local organizations helping these children, their plea is more meaningful. They are pioneering this field for the education of all children to develop their fullest potential to learn in order to achieve rewarding and independent adulthoods.

It is Real's goal to put all children into the "orbit of learning", to become learners through special techniques, successes instead of failures and rejects—responsible, functioning adults instead of a welfare load on society.

LET US LISTEN TO VICA

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. GONZALEZ. Mr. Speaker, on April 30 and May 1 and 2 in my home city of San Antonio a very successful meeting of 3,000 young Texans and their teachers took place.

It was the 23d annual State meeting of the Vocational Industrial Clubs of America, and the third time that the Texas group had met in San Antonio.

In this time when too many members of the older generation are overly concerned about present day youth, and their activities, it is imperative that we pay close attention to the nearly 50,000 young Americans who belong to the VICA. By looking at the good deeds of these and others of our young people, we can come to realize that the outlook for the future of our country is not as bleak as some might have us think.

Mr. Speaker, it gives me great pleasure to submit for your consideration and that of the Members of this great body, a report prepared by the VICA organization.

I would also like to pay tribute to Mr. Roy A. Broussard, supervisor II with the VICA organization, for the outstanding work that he and others have done in this fine activity and for and with the more than 20,000 young Texans who belong to VICA.

The report follows:

LET'S LISTEN TO VICA

The concept behind the Vocational Industrial Clubs of America (VICA) is not a new one but, in action, it can have a revolutionary impact.

The Vocational Industrial Clubs of America, a youth organization for trade, technical and industrial students, was established

some 6 years ago, May 6, 7, and 8, 1965, at a convention of state trade and industrial club associations in Nashville, Tennessee. VICA was established for the purpose of encouraging, through club activities, the development of the "whole student"; i.e., his social and leadership abilities as well as his skills. Organizations with the same goal have been in existence for many years for vocational students in other areas of endeavor—for example, farming, homemaking, nursing. With the establishment of VICA, the student enrolled in high school trade, industrial and technical curriculums was given similar opportunities to develop as a citizen and individual.

Despite the brief existence of VICA, the idea behind it is not new. Vocational educators who work with and train young people to take their place in the labor market have long been aware that youth need more than skills to make their way in the world. They need motivation, respect for their capabilities, an understanding of their role in the industrial community, an awareness of their roles as citizens and an opportunity to develop their leadership abilities.

In the 1930's a national organization called the Future Craftsmen of America grew out of this recognition of the needs of students trained for industrial occupations. The organization failed in its second year of operation but individual states kept the idea alive with organizations of their own. Prior to the organization of VICA, at least 20 states were involved in vocational youth club activities on local and state levels. Many states had developed sophisticated programs and some district level programs were conducted.

The turning point for translating a need and an idea into a program of national scope was reached in 1960. At the American Vocational Association Convention, a committee was set up to study the possibility of a national vocational youth organization and make recommendations. From there, with the interest and assistance of educators, the U.S. Office of Education and national labor and industrial leadership, the momentum increased, the groundwork was laid and VICA—a national organization for trade, technical and industrial youth—was born. Its official beginning was May 1965 at the First Annual Trade and Industrial Youth Conference in Nashville, Tennessee. Two hundred persons participated, 14 states were represented by student delegations, and 24 states had adult participants or observers.

Twenty-six state trade and industrial club associations with 30,000 members joined the national VICA organization during the first year; 11 others joined during 1966-67. As of June 1967, close to 42,000 students plus more than 1,000 professional members had joined VICA. The students participating through membership in over 1,300 individual VICA clubs in high schools across the Nation and in Guam and Puerto Rico as well.

A program which provides for the development of trade, technical and industrial youth can have a profound impact on our Nation because it offers solutions to some significant questions: How can industry attract sufficient manpower—workers capable of doing highly skilled work—when traditionally the status of the laborer and technician has not been high? How can youth who lack motivation and interest be drawn into programs which will make them highly employable and useful citizens and remove them from the statistics of the unemployed?

VICA provides solutions to this two-fold problem by improving, through its work in the public schools, the status of trade, industrial and technical occupations. VICA attracts and develops capable students.

Young men and women become interested in the VICA program because it brings them together with youth sharing common interest for an exchange of ideas, a discussion of prob-

lems, and the opportunity to work toward common purposes. VICA offers them prestige and recognition through a national program of awards and contests. It broadens the student's perspective through opportunities to participate in interclub and interstate activities. It offers co-curricular activities that make education and training more meaningful—an important aspect in improving grades and keeping many students in school.

VICA's national organization has developed a Program of Work which outlines six major goals and sets the pace for VICA nationwide. When planning their own programs, state and local organizations may adopt in whole or in part these goals:

Personal growth—individual self-improvement through scholarship, citizenship, and participation in home, school, and community activities.

Community understanding—improvement of relations among students, between students and teachers, employees and employers, management and labor, school and community and other nations.

Safety—in shops, classrooms, on the job, and on the highway.

Teacher recruitment—the encouragement of capable students to enter the field of industrial education.

Vocational youth cooperation—among youth in all areas of vocational education.

Good public relations—promoting a general public awareness of the good work that youths engaged in industrial education are doing to better not only themselves, but their community, state, nation, and world.

Clubs also plan activities based on the needs of their local schools and communities. Within their own schools, VICA members may be active in the planning of school assemblies, ushering at school events, fund raising, or school beautification projects. The planning of career programs for undergraduate students interested in vocational education is an important role for VICA members in many schools. Members may also promote the VICA program through newspapers, radio, and television, and possibly conduct follow-up surveys of former vocational students. Programs and forums on subjects of interest are presented. A popular activity is the employer-employee banquet, to which students invite their present or potential employers.

Community service activities such as needy family projects are also undertaken by some VICA clubs and social activities, many designed to raise money for sending local delegates to state and national leadership conferences, are an important part of VICA life.

While the local club, where all students have an opportunity to join in activities and projects is the key to the program, a National organization offers cohesion and provides the guidance and identification that lend the program strength. Essential to an understanding of VICA is a knowledge of the structure of the program at all levels.

The Vocational Industrial Clubs of America, Inc., a non-profit educational organization, sponsors VICA, the youth organization. An administrative board composed of members of VICA, Inc., the U.S. Office of Education and the American Vocational Association, serves as the adult governing body. Ten national VICA officers, elected annually by the student members, serve as the National Executive Council. They are the President, Vice President, Secretary, Treasurer, Parliamentarian and five Regional Vice Presidents.

A National Advisory Council composed of members from education, labor, and business provides counsel, advice and assistance to the Administrative Board. An Executive Director, appointed by the Administrative Board, serves as the administrative officer of the National organization at its headquarters in Washington, D.C.

VICA itself is an organization of state and territorial associations, each operating under

approval of the Administrative Board in accordance with and by legal authority derived from a charter granted by VICA, Inc. Charters are issued to eligible states or territories upon submission of a formal application which meets the National requirements.

The advisor for VICA in each state is the state supervisor of trade and industrial education or his designated representative and he is the administrative officer of the state association. The designated state advisor is usually a member of the state industrial education supervisory staff.

VICA functions as an organization of local clubs affiliated with the National organization through a State Association. A Vocational Industrial Club is a group of students in a single school who work cooperatively to develop leadership abilities through participation in worthwhile educational, vocational, civic, recreational, and social activities. Assisting in the organizing and functioning of a club is an adult club advisor. Usually, he is a vocational teacher and is the administrative officer of the club in the high school.

Generally local clubs have one or two organizational structures—the single section or multi-section structure. The single section is the most common and is found in schools with only one vocational industrial training course. All the students are pursuing the same training under a single instructor who is the club advisor. The students elect their officers who comprise the club executive council and plan and conduct various activities in a single body.

The multi-section club is formed in schools where several vocational courses are offered, such as in large comprehensive high schools or in area vocational schools. In this situation a club consists of several sections which are organized by subject and each section has its own officers and activities. Each section elects delegates to the club executive council which coordinates section activities to avoid conflicts and duplication of club projects and plans overall club work. Section advisors are often teachers of the section's subjects and the club advisor is elected from the section advisors or appointed by the school principal. Often guidance counselors serve as club advisors in area schools with multi-section clubs.

Students in large clubs prefer the multi-section structure because it offers a togetherness not possible otherwise. With membership in the hundreds, a single-structure club is not practical because opportunities for participation are greatly reduced.

A national organization is essential to the VICA program because it can offer guidance and services that could not otherwise be made available. National VICA offers an organizational hand in getting local club programs moving and helping them to continue. It is active in developing programs which offer guidance and assistance in these areas to state departments of education and to local high schools in the establishment of clubs. It provides information and materials, conducts workshops and offers consulting services on club organization and youth development.

In addition, through its Youth Development Foundation which solicits the financial support of labor and industry, National VICA sponsors five major youth development activities. These are: leadership development conferences, national competitive activities and leadership awards, leadership development publications and student financial assistance.

Leadership conferences have a particularly significant role in the VICA program. Among the four major national conferences held yearly are a national officers leadership conference, a state advisors workshop and the national leadership conference to which all state associations may send delegates. In addition, the VICA Youth Development

Foundation sponsors the American Industrial-Technical Education Conference whose members are representatives of business, industry, labor, government and education. All are supporters of the VICA program and attend the conference for progress reports and discussion on vocational trade, technical and industrial education and VICA.

The national student conferences are essential for instilling spirit and a sense of identity among the students from all over the Nation. They also provide the opportunity for students to take part in conducting the business of the organization.

Competitive activities have been included in the VICA Youth Development Program to motivate and develop an enthusiasm for learning. These activities are practical and valuable experience for students entering industrial careers and at the same time, they offer personal enrichment through opportunities to achieve a sense of accomplishment and recognition for skills and abilities. Public speaking and job interview competitions have been conducted at the National level. At VICA's third National Leadership Conference, awards were presented for performance in a shop safety program and for performance in presenting demonstrations of VICA club procedure and VICA opening and closing ceremonies. The student's poise and skill in handling a variety of situations such as these are proof of his ability to handle himself in social and business situations. National VICA has also presented awards to winners of a nation-wide machine trades contest and will in the future sponsor skill competitions in various areas of endeavor.

A key aspect of the Youth Development Program is the provision of materials to provide communications between clubs and between National VICA and individual members and advisors. Publications and supplies necessary to the club program are provided through National VICA. Publications include the *Official Guide* or handbook to club activities, a *Competitive Activities Guide*, brochures and posters with information on club activities and programs. In addition, VICA publishes the *Professional News*, which provides news and items of information valuable to the professional member. Perhaps chief among the VICA public information materials is VICA magazine, published four times yearly. Through articles on club members and material of general interest, VICA broadens the student's perspective and gives him a sense of identity with others of similar interests.

In addition to its publications services, National VICA administers a supply service which gives members an opportunity to purchase official VICA items and club paraphernalia.

All of these aspects of the VICA program are concrete ways through which VICA can serve the student.

VICA is, then, a philosophy in action. Through an investment in the student now, our Nation will find that it has made a prudent investment in the future. The trade, technical and industrial student is important to our Nation because we need craftsmen—4 million new skilled workers by 1975. Without sufficient manpower, labor shortages will boost production costs and prices and slow down production. Many of the potential craftsmen of 1975 are in school today. Many are already being trained to take their place in industrial and technical occupations. Others have taken no direction toward specific job training and yet will not attend college. They will complete their formal schooling unprepared for work or will drop out and enter the job market equally unprepared and without a high school diploma.

Attracting these youth to vocational trade, technical and industrial programs is important to them and to the Nation. VICA is doing the job by teaching the dignity of work

and imparting a status to skilled labor that it has long deserved.

The VICA concept will continue to grow dynamically on a national level if active attitudes to support its growth are taken by trade, technical and industrial educators on the federal, state, and national level.

Among educators, it is important that the activities of VICA be recognized as a part of the total trade and industrial education program. The American Vocational Association has endorsed the VICA program as part of the responsibility of the industrial educator; that is, the educator's responsibility goes beyond skill development to the traits of citizenship and leadership that will help the student take his place in the industrial community.

Meeting in May, 1967, at St. Paul, Minnesota, the National conference of state trade and industrial supervisors expressed support for the VICA program. The educators recognized that in order to spur the growth of VICA, action must be taken by federal, state and local leadership. Emphasis must first be placed, they felt, at the U.S. Office of Education level, to accept the premise that youth organizations complement vocational instruction. The supervisors felt that USOE must encourage states to consider VICA as part of their trade and industrial program and should recommend that state agencies employ a full-time person to provide leadership and foster the growth of VICA within their states.

The role of state leaders, the supervisor stated, should be to encourage local school administrators to active support of CIA. State VICA conferences, local advisory leadership programs on a state-wide basis and relaying of the VICA concept through teacher educators and teacher education programs were also recognized as basic needs.

The supervisors also stated that emphasis at the local level must be placed on organizing VICA programs to serve all students with a program of civic, educational, social and professional activities. The involvement of local business and industry were deemed necessary to support the purpose of VICA.

In the long run, the strength of VICA will lie in the acceptance of the philosophy behind it: that youth development should be an integral part of the trade, technical and industrial education program. The concept will have to be relayed to the trade, technical and industrial instructor through teacher training programs. This will require the acceptance of the role of club activities by the teacher trainer. To this end, teacher training programs will need to be designed to prepare the future instructor to recognize the centrality of youth development club activities as an inseparable part of the total learning experience. Particularly, courses will have to be developed in the organization and supervision of club activities and the integration of club activities in the total program.

The final justification for the VICA program, the answer to "Why VICA?" is simply the student—the young man or woman whose ability to contribute makes all the difference to society and to himself.

Many of the youths who are a part of our unemployment statistics are not untrainable. They are not a statistic because they lack intelligence or capabilities.

A youth profile prepared by a subcommittee of the Senate Labor and Public Welfare Committee in 1966 reported a study of Maryland school dropouts, pointing out that lack of success in school and lack of interest were major reasons for over half the dropouts. It is interesting that more than 80 percent were not behavior problems; almost three-fourths were not from broken homes. Low IQ does not seem to provide an answer, either, for why these students dropped out. A Department of Labor study of dropouts in

seven communities shows that 69 percent had IQ's over 85. Forty-eight percent of these had IQ's between 90 and 109. Six percent had IQ's of 110 and over.

There were other interesting facts brought out by the profile study of dropouts. Almost half came from families where the head of the family was working in an unskilled job. More than three-fourths had never participated in school athletics or extra-class activities.

Skill training would have been an answer for those non-vocational dropouts who lacked interest in a strictly academic program. And VICA would have been an answer; giving these youths dignity and respect for themselves and their skills and offering them goals and a sense of identity.

While descent, in conclusion, is to be expected, and healthy for this nation, is it fair to the vast majority of conscientious young Americans, when front pages of newspapers all over the nation picture the small minority of young people burning buildings; is it fair to ignore the majority of dedicated young Americans, while publicizing the young malcontents raising havoc in the streets of America; is it fair, by generalization, to compare the majority of industrious young people to the destructive minority of young misfits?

Indeed—it is not!

It is time to shout: Wake up America! Wake up and listen to the call of the majority of your young people—the future of this great nation!

VICA is just one of the multitude of youth organizations that are shouting for recognition.

Is this country going to at last listen?

THE CALIFORNIA NATIONAL
GUARD: OF, BY, AND FOR THE
PEOPLE

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 12, 1971

Mr. LEGGETT. Mr. Speaker, last year the Ohio National Guard was heavily criticized for firing into a crowd of students and bystanders at Kent State University, killing four and wounding 11 others. Two years earlier, the Guard units of several States were condemned by a Presidential commission for their trigger-happy performance during urban disorders.

I regard these criticisms as justified, particularly those pertaining to the Kent State massacre. But I hope the country, and our young people in particular, will not make the mistake of condemning all National Guards for the criminality of some. Each State's National Guard has a great deal of independence. The result is that, while some are undoubtedly havens for some incompetents, many others, including that of my own State of California, are fine organizations which ably carry out their constitutional duties and much more.

In the words of its commanding general, Maj. Gen. Glen C. Ames:

Since the National Guard from the days of Concord has been traditionally rooted to the community in which it is located, I feel that each unit must share the responsibilities of the community, and must initiate

and participate in the various community programs.

Our organization and much of our equipment are peculiarly well suited to these programs. The costs of such, gasoline, lubricants, etc., are minimal. We cannot, of course, support all activities brought to our attention, as we are bound by certain Federal regulations relating to use of equipment and all programs must be consistent with the maintenance of our training and readiness levels.

While our involvement during calendar year 1970 was substantial, I am looking forward to even greater participation by our units in domestic action programs for calendar year 1971. I am confident that our units and personnel will be the richer for the experience.

General Ames has been kind enough to supply me with a summary of the California National Guard's community activities during the past year, which I include at this point in the RECORD:

CALIFORNIA NATIONAL GUARD'S COMMUNITY ACTIVITIES

(a) Ecology and Reclamation Projects—1,335 California National Guardsmen and townspeople on 12 different occasions participated in these projects. This activity includes such programs as recycling waste material, clean-up projects and reseeding wilderness areas.

(b) National Guard Support to Needy and Underprivileged—A total of 2,154 Guardsmen sustained varied programs on 11 different occasions. National Guard support included such activities as delivering clothes and medical supplies to three Indian sites, distributing food and toys to needy children and providing camp-outs for underprivileged children.

(c) Support to Community Service Organizations—The over-all involvement of the National Guard in support of community service organizations was the most far-reaching and largest category. The Guard supported local civic groups 73 times during 1970 which encompassed activities ranging from construction of Little League baseball fields to active involvement in all segments of the Boy Scout program. Approximately 47,000 participants and Guardsmen were involved in this category.

(d) Support Given to Governmental Organizations—The California National Guard was requested on 21 occasions to assist governmental agencies that are primarily engaged in sustaining community and youth programs. In this respect local governmental and Guard personnel numbered approximately 25,500 in projects which included medical treatment and consultation with inmates at the San Francisco County Jail to providing personnel and equipment in support of repair of flood-damaged roads, snow removal, construction and clean-up assignments.

(e) Miscellaneous—The California National Guard participated in several programs which were initiated and conducted solely on the local unit level. These activities involved over 23,500 local citizens and Guardsmen on 11 separate occasions. Examples of our involvement in this area are safety classes on the care and use of hunting weapons and visits to veterans hospitals.

MAN'S INHUMANITY TO MAN— HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks:

"How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

POLITICS AGAINST JUSTICE

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mrs. ABZUG. Mr. Speaker, citizens throughout the Nation have expressed a great concern the past few days over the great injustice done to the traditions of due process of law and the civil liberties of many thousands of individuals who were illegally arrested and detained here over the past few weeks. This concern is well-founded and reflects the growing sentiment that such policies of mass arrest and suspension of formal arrest procedures are yet additional evidence of the fact that American liberties under this administration are in jeopardy. Because I think the opinions expressed in this New York Times editorial of May 2 are worthy of note, I am inserting it in the RECORD for the benefit of my colleagues:

POLITICS VS. JUSTICE

However much he may know about marketing municipal bonds or managing a political campaign, Attorney General John Mitchell has again demonstrated that he understands very little about the interdependence of law and liberty in a free society.

On Monday he compared last week's demonstrators in Washington to Hitler's Brown Shirts and extolled the police for violating the law. If this reckless speech had been delivered by a national party chairman to a partisan audience, it would have been regrettable but easily dismissed. Coming as it does from the Attorney General, the principal legal officer of the United States Government, speaking to an official meeting of California policemen, this speech evokes renewed dismay at Mr. Mitchell's unfitness to head what is supposed to be a Department of Justice.

The radical Mayday demonstrations were from the outset ill-conceived as a tactic directed against the Vietnam war. They inevitably presented a difficult challenge to the Washington police force. The police performance was mixed. The police certainly deserve credit for avoiding the bloody violence and loss of professional discipline, which has sometimes occurred in other confrontations in other cities.

But there was a resort to wholesale illegality. Normal arrest procedures were suspended. Thousands of individuals were hustled off to jail and to a detention center. There were not arraigned or charged with a specific crime. They were held for long periods without food and incommunicado. Most of them were released when the courts finally intervened.

These police methods were not those of a lawful society acting under the Constitution in Protection of democratic liberties. In this respect the Washington police action is not to be condoned, much less extolled, as a pattern for police in other cities. It was indeed essential to keep the streets open; but that could have been done without resort to indiscriminate mass arrests. The failure to proceed lawfully and selectively was a serious lapse of judgment by the Washington police. To what extent this error of judgment

was influenced by pressure from Mr. Mitchell is not yet clear.

The police may have feared that they were going to be in combat with tough urban guerrillas. In fact, the Mayday demonstrators were mostly reckless and leaderless. They did not generally taunt the police; they tried to engage in friendly dialogue with them, they did not resist arrest. Incidents of violence against property were comparatively few and well within the power of the police to contain.

For Mr. Mitchell to compare these demonstrators to Nazi Brown Shirts is absurd. For him to paint this lurid picture of Washington caught up in a terrifying struggle against "mob rule" is deliberately to mislead the public. His motives appear to be blatantly political. Mr. Mitchell seems to think there are votes to be won by being "tough" with long-haired radicals. Instead of trying to maintain the delicate and difficult balance between the necessary maintenance of public order and the protection of individual rights, he has made a vulgar and inflammatory appeal to prejudice and passion.

A civilized society judges itself on the way in which it treats troublesome minorities. It is no defense of police violations of due process for the Attorney General to argue that some of the radical dissenters would deny rights to others and would like to destroy this nation's system of liberty. Of course they would.

But the law-abiding majority expects its public officials to dispense justice and enforce the laws according to the standards laid down by the Constitution and the courts, not by the depraved standards of the enemies of freedom.

KENTUCKIAN KILLED IN ACTION

HON. M. G. (GENE) SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. SNYDER. Mr. Speaker, Mr. and Mrs. Bill T. Orr have just recently received notice that their son, Sgt. Patrick O'Reilly Orr, had been killed in action.

Sgt. Orr thus becomes another of the valiant men—and the 120th northern Kentuckian—who has given his life in defense of his country and in protecting the free world.

The sympathy of thousands of other families who have paid this sacrifice goes out to Mr. and Mrs. Orr. To them also goes the sincere gratitude of those of us whom their son died protecting.

The Kentucky Post article of May 5, 1971 which reports the loss of Sgt. Patrick O'Reilly Orr follows:

PREVIOUSLY WOUNDED VET KILLED IN VIETNAM (By Howard Raver)

A Ft. Thomas soldier who had been wounded previously in Korea is Northern Kentucky's 120th victim of the Vietnam War.

Sgt. Patrick O'Reilly Orr, 23, who was serving in an Air Cavalry Helicopter Scout squad, was killed Thursday at Quan Loi, Vietnam, his family has learned.

He was the son of Mr. and Mrs. Bill T. Orr, 2 Sterling Avenue, Ft. Thomas.

The family received no details other than that Sgt. Orr was shot down in action while serving as a forward observer in a helicopter.

He enlisted in the Army at Newport in January 1969. After basic training he was sent to Korea, where he served eight months.

He was in a tank along the DMZ (demilitarized zone) in Korea, his family said,

when the tank was struck by enemy fire, and a ricocheting piece of shrapnel struck him in the head.

Sgt. Orr spent several weeks in the hospital recuperating from the wound and received the Purple Heart.

He was home on leave to spend last Thanksgiving and Christmas with his family and was sent to Vietnam in January. His father is an employe of the Dawson-Evans Construction Co., Cincinnati, and his mother, Mrs. Marguerette Orr, is a secretary at St. Luke Hospital.

Sgt. Orr, native of Niles, O., had lived in Ft. Thomas 16 years. A 1966 graduate of Highlands High School, he attended Eastern Kentucky University before enlisting.

He was a member of Highland United Methodist Church.

Besides his parents, survivors include two brothers, William G., Cincinnati, also a Vietnam veteran, and Robert C. Orr, Groesbeck, O., and a sister, Mrs. Jenny Burson, Houston, Texas.

Dobbling Funeral Home, Ft. Thomas, will complete arrangements.

Sgt. Orr was the 32d Campbell County serviceman to die in Vietnam.

ATLANTIC COUNCIL'S VIEWS ON INTERNATIONAL MONETARY SITUATION

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. REUSS. Mr. Speaker, a prestigious committee of directors of the Atlantic Council of the United States issued a statement yesterday, on behalf of the council, on the troubled international monetary situation. Each of the authors has impressive credentials. They are W. Randolph Burgess, chairman of the council and former Undersecretary of the Treasury; Henry H. Fowler, former Secretary of the Treasury; William McChesney Martin, former Chairman of the Federal Reserve Board; Percival F. Brundage, former Director of the Bureau of the Budget; Livingston T. Merchant, former Executive Director of the International Monetary Fund, and Sidney E. Rolfe, economist. Their statement follows:

STATEMENT ON MONETARY SITUATION

The Atlantic Council of the United States, which is directly concerned with the long term relationships between Europe and America, recognizes in the recent crisis in foreign exchange markets a critical development in Atlantic relations.

Over and beyond the immediate and palliative steps which are now being taken, it is most important to re-examine the more basic elements involved in the situation and to seek longer term solutions to prevent such crises in the future.

Fortunately, this crisis has come at a time when the great industrial countries have developed a series of institutions and practices which form a solid base for efforts to deal with developments of this sort. We have now many years of experience with the operations of the International Monetary Fund, the OECD and the less formal habits of cooperation among central banks and treasuries. It has been possible to summon these orderly forces to consider and make thoughtful recommendations to the countries concerned.

This crisis comes during a long period of economic prosperity and development in the industrial world which has been furthered by the availability of a continuing growth and stability in the provision of funds not only for the industrial countries themselves, but also an overflow of funds to the less developed countries. In the process of this development, the U.S. dollar has played a major role. For the dollar serves not only as a reserve currency held by central banks throughout the world, along with gold and special drawing rights as a part of their reserves, but also as a "vehicle" of "transaction" currency in which the vast bulk of international trade and capital movements are conducted.

In fact, one of the principal reasons for the large amount of dollars held outside the United States has been the prominent and continuing place of the dollar as a factor of development toward world prosperity. It has been the very strength and value of the dollar which has led to its outflow from the U.S. to a point where the European countries have found it difficult to absorb as many dollars as have become available. We must seek solutions which make possible a greater stabilization of the useful functions of the dollar and not a diminution of its social and economic value.

Every effort must be made to avoid imposing a system of controls, nationalistic and protectionist in nature, which would act as a deterrent to a flow of funds to the places where they can be fruitfully utilized and which would also impede the flow of world trade.

It is also essential to view this present monetary crisis in relation to the long term development of greater unity and cooperation among the great industrial countries including notably, Western Europe, North America and Japan. We must find solutions which lead to greater cooperation rather than less.

Decisive action to bring the U.S. balance of payments to or close to equilibrium is a national and international responsibility of critical priority.

It is equally important to all the people of the Free World. Moreover, the achievement of acceptable equilibrium in its balance of payments cannot be achieved by the United States alone, unless it should choose the unacceptable course of acting unilaterally to withdraw from its role in world affairs and seal itself from international competition by artificial restrictions on trade and a halting of two-way flows of capital movements.

It should be achieved through multilateral cooperation, with the United States taking the lead and following through on a multilateral effort.

In other words, this nation and other countries closely associated with it in security, trade, tourism and capital movements must once again face up to the undertaking of those multilateral efforts which will produce equilibrium in international payments and enable the dollar to continue to perform its unique role in the international monetary system.

The adaptation of U.S. policy and practices to provide both a substantial equilibrium in our balance of payments and some margin for capital export, public and private, to the less developed countries, is a joint task of government and private enterprise.

But more than that, it is a responsibility of the other countries, particularly those making up the OECD, NATO and our other basic alliances. For it would be unfortunate for this balance of payments adjustment process to be a unilateral one. It must go forward in the context of close international cooperation if future peace and prosperity are to be assured.

IS THE VIETNAM WAR PRODUCING AN UNCOMMONLY LARGE NUMBER OF AMPUTEES?

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. WALDIE. Mr. Speaker, on my recent trip to Indochina I was struck by a recurring tragic recognition, namely, this brutal war seems to be producing an exorbitant number of wounded men who require limb amputations in comparison to other wars in which America has been engaged. There may be many reasons for this sad fact, if indeed, that apparent conclusion is accurate. The nature of this war has meant an inordinate number of casualties from mines and booby-traps and these wounds commonly require amputation. The speedy and efficient helicopter evacuation of seriously wounded men has probably resulted in men surviving, though badly torn apart, who might have died in other wars.

But whatever the case it is necessary to know if, in fact, our wounded in action casualties include an uncommonly large number of amputees.

Since no war in which we have been involved has ever been as computerized, as charted and graphed with statistical proof of progress toward "the light at the end of the tunnel" as has been the Vietnam war, I assumed my request to the 24th Evacuation Hospital, Long Binh, Vietnam, to provide me with a statistical analysis of American wounded in action, including the number of amputation operations performed from 1965 to date would be easily accumulated and provided.

You can find any statistic you want on enemy casualties and graphs and charts exist in abundance to illustrate the remarkable effectiveness of our forces in destroying the enemy. Thus, you might assume comparable information on American casualties would be carefully and efficiently compiled.

Such is not the case. As the attached correspondence will indicate our military hospitals in Vietnam have been too busy to keep such statistics and no information on this subject is available.

I conclude one of three things is true. Either the military medical service is as inefficient as the enclosed correspondence would indicate, or the figures on amputations would be embarrassing to the medical service, or the figures on amputations are part of the ugliness of Vietnam that the administration believes the American people should be protected against.

I believe the latter to be the more reasonable conclusion. I also believe the figures are available but are being denied the American people.

The correspondence follows:

DEPARTMENT OF THE ARMY,
Washington, D.C., April 27, 1971.

HON. JEROME WALDIE,
House of Representatives,
Washington, D.C.

DEAR MR. WALDIE: This is in response to your request for information during your visit to the 24th Evacuation Hospital, Vietnam on 16 April 1971.

The information you requested concerning the numbers of wounded in action in Vietnam and operations performed in USARV medical treatment facilities is attached. No statistical data is available on the number of amputations performed in Vietnam.

Sincerely,

PHILO A. HUTCHESON,
Colonel, GS Office,
Chief of Legislative Liaison.

U.S. ARMY STATISTICAL INFORMATION

I

Number of wounded in action (WIA) in Vietnam¹

1965	3,607
1966	18,568
1967	33,573
1968	59,835
1969	50,641
1970	² 25,147
1971 (Jan.-Mar. only)	2,985

¹Includes minor wounds not requiring hospitalization.

²Includes Cambodia casualty data for May 1-June 30, 1970.

II

Surgical operations (major and minor) in USARV hospitals

1965	3,982
1966	27,184
1967	51,686
1968	87,582
1969	96,888
1970	61,490
1971 (Jan.-Feb. only)	6,264

APRIL 28, 1971.

Col. PHILO A. HUTCHESON,
GS Office, Chief of Legislative Liaison, Department of the Army, Washington, D.C.

DEAR COLONEL HUTCHESON: I am in receipt of your letter of April 27 in response to my request for information on our troops wounded in Vietnam.

Please advise why "no statistical data is available on the number of amputations performed (on American WIA) in Vietnam."

I desire a response as quickly as possible.

Sincerely yours,

JEROME R. WALDIE, M.C.

DEPARTMENT OF THE ARMY,
Washington, D.C., April 30, 1971.

HON. JEROME R. WALDIE,
House of Representatives,
Washington, D.C.

DEAR MR. WALDIE: This is in response to your request for an explanation as to "why no statistical data is available on the number of amputations performed (on American WIA) in Vietnam."

The current summary reporting workload imposed on hospitals in a combat area is necessarily held at the minimum essential to higher headquarters for compelling operational and administrative reasons. Other kinds of statistical information highly pertinent to final evaluation of the medical experiences in any conflict, but for which the same immediate operational requirement is not apparent, are being compiled from detailed analyses of the medical records of each patient. Because of the great number of records involved, it is not anticipated that this massive study pertaining to many other aspects of Army medical Service in Vietnam, as well as to the types of surgery performed, will be completed prior to 1 July 1972.

Sincerely,

PHILO A. HUTCHESON,
Colonel, GS Office, Chief of Legislative Liaison.

MAY 6, 1971.

Col. PHILO A. HUTCHESON,
GS Office, Chief of Legislative Liaison, Department of the Army, Washington, D.C.

DEAR COLONEL HUTCHESON: This is to acknowledge receipt of your letter of April 30th.

I can understand that final completion of "this massive study pertaining to—the types of surgery performed" will not be completed until July 1, 1972.

However, we've been incurring such casualties for ten years. It is incredible to suggest no statistics on any of those years are yet compiled. Please tell me if this is so.

Sincerely yours,

JEROME R. WALDIE, M.C.

DEPARTMENT OF THE ARMY,
Washington, D.C., May 11, 1971.

HON. JEROME R. WALDIE,
House of Representatives,
Washington, D.C.

DEAR MR. WALDIE: This is in response to your letter of 6 May 1971 concerning statistics of surgeries performed in Vietnam during the past ten years.

A further check with the Army Staff indicates that no figures are available for those years.

Sincerely,

PHILO A. HUTCHESON,
Colonel, GS Office,
Chief of Legislative Liaison.

FUNDING FOR THE ELDERLY SHOULD BE INCREASED

HON. JOHN C. CULVER

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. CULVER. Mr. Speaker, May is an important month and 1971 an important year for the aging. May is Senior Citizens Month and 1971 is the year of the White House Conference on Aging. Yet the problem of the aging is fast becoming a crisis. The President wants our 20 million older Americans—a quarter of whom live below the official poverty level—to know that we care and that the Nation owes them a tremendous debt. But these gestures are empty without substantial financial assistance and new constructive programs for the Nation's senior citizens since the aging crisis revolves around the personal economics of growing old:

Income inadequacy in the face of inflation and high medical costs and rising property taxes;

Cutbacks in the care provided by Medicare;

Transportation deficiencies;

Housing shortages;

Dwindling opportunities for employment even before the age of 60;

Lack of recreational facilities;

Special consumer needs of the elderly; and much more.

It is not surprising that our senior citizens are in many cases our forgotten citizens.

In order to maximize the opportunity afforded by the 1971 White House Conference on Aging, the Congress, executive branch, and the senior citizens themselves, must devote their energies toward the formulation of a comprehensive national policy on aging, and the commitment to carrying out that policy. Ironically, Congress and the representatives of senior citizen organizations have first had to devote themselves to dissuading the administration from its proposed budget cuts for the Administration on Aging.

It is tragic that during the year that the elderly, representatives of senior citizens groups, and experts in the field of aging will be meeting at local, State, and national levels to produce the long-awaited national policy on aging, the administration has decided to play sleight-of-hand with the very funds Congress authorized to help repay the tremendous debt owed to our older citizens. Most important, however, with inadequate funding for the programs under the Older Americans Act, the delegates to the White House Conference may well question the Nation's future commitment for undertaking the desperately needed comprehensive national policy on aging.

Despite the unquestioned success of the programs under the Older Americans Act, the administration showed that the elderly were not one of its priorities when it requested only \$29.5 million—nearly \$2.5 million below this year's appropriation—for these programs. Fortunately, due to bipartisan congressional opposition and sharp criticism by the national senior citizens organizations, the threatened cutbacks have been rescinded.

Two years ago the Congress expressed, with solid bipartisan support, its strong intent to expand and improve the Older Americans Act by authorizing significant funding increases. For fiscal year 1972, the Congress authorized \$105 million to be spent. Yet, the administration's revised budget of \$39.5 million is still less than 38 percent of the authorized funding level. According to the administration's new request, repayment of the tremendous debt we owe our senior citizens amounts to about \$1.98 for each elderly person in the United States.

In 1970, 1.8 million older Americans benefited from title III community programs which included: Homemaker services, employment referral, transportation, meals on wheels, recreational activities, adult education opportunities, and many others.

Instead of trying to expand these services and serve more of our 20 million older citizens, the administration has decided only to restore the community projects budget to \$9 million, the same level of funding for this year.

Today a critical shortage of trained personnel continues to be one of the most pressing problems for expanding and providing services for the aged. It is estimated that less than 20 percent of the professional and technical workers employed in programs serving the aged have had formal training for their work.

Even though the need for trained personnel to serve the elderly will be two to three times as great in 1980 as it was in 1968, the outlook is for little improvement unless drastic changes are made in the scope and character of the training effort.

Yet, the administration has not asked for additional funds to expand title IV research and demonstration programs, and title V training programs; rather, in each case the administration has only restored funding to this year's level.

Among the programs which help solve the financial problems of older Americans as well as helping to meet many

other of their needs, the foremost is the foster grandparent program. The employment of older people offers us a reservoir of experience and skills as aides to professionals in social and health related services, while helping them to supplement their income and maintain their self-esteem. It is difficult to understand why the administration has not expanded this program, but has instead chosen only to restore funding to this year's level, especially when hundreds of requests for Federal help to start effective new projects are turned away each year for lack of funds.

In short, for fiscal 1972, the administration has, for many programs, adopted an expansionary budget—but not for these four essential and successful programs under the Older Americans Act. In fact, were it not for persistent congressional concern, the administration would have sharply cut back these programs, victimizing the elderly in the fight against inflation, although they are the least equipped to bear these pressures.

There is an overriding imperative confronting our Nation today; it is to readjust our national priorities and to make a more effective reallocation of Government expenditures for the development of our human resources. The administration's recent sleight-of-hand with funds for the Older Americans Act represents determinations based on yesterday's priorities, not those of today, which should be based upon what we want for the future.

While the administration's callous indifference to the needs and expenditures speaks for itself, I am confident that when the Labor-HEW appropriations bill is considered, Congress will not allow the nullification or stagnation of the Older Americans Act. It is important at a time when imaginative and far-reaching solutions to the problems of the aging are being considered, that we do not neglect but strengthen successful and tested programs already enacted in law.

ISSUE OF SPECIFIC PULLOUT DATE IS ENTIRELY PHONY

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. HOGAN. Mr. Speaker, there is a constant demand on the part of the peace movement that the President name a specific date for the withdrawal of American troops from Vietnam. This is an entirely unreasonable demand. The President is doing exactly what he pledged to do—winding down the war by gradually withdrawing our men from Southeast Asia.

However, naming an exact moment when the war shall end is an unrealistic feat. The rationales for this are numerous and are clearly enumerated in a most cogent article, written by Crosby S. Noyes, which appeared in the Washington Evening Star on April 15, 1971. Because of the concise way in which Mr.

Noyes refutes the great "pullout date" debate, I commend his article to my colleagues' attention:

ISSUE OF SPECIFIC PULLOUT DATE IS ENTIRELY PHONY

(By Crosby S. Noyes)

The great debate over the date has got to be—to borrow a felicitous phrase from Sen. J. William Fulbright—the biggest piece of political humbuggery of modern times.

President Nixon says he is withdrawing American troops from Vietnam as fast as he can without courting disaster. He has reduced the total of 540,000 when he took office to less than 300,000 today. He has announced that another 100,000 will be out by the end of the year. His goal, he says, is the complete withdrawal of all American combat troops.

But this is no good as far as the critics are concerned. They want him to name a day—a specific date—for the departure of the last GI from Vietnam. And the fact that he declines to do so is blown into a major test of the President's "credibility."

So grave is the crisis of confidence that even the President's friends are trying to get him off the hook. Since Nixon has said that he expects to be held accountable for his performance in Vietnam, Sen. Robert Griffin of Michigan assumes that the deadline is election day, 1972. Others, including Senate Minority Leader Hugh Scott, imply that Nixon has indeed set a date—Jan. 20, 1973—at least in private. The White House denies anything of the sort.

It is all utter nonsense. The date debate is nothing but a shocking illustration of the degree to which the confidence of the American people in its leadership has been undermined and eroded—not by anything that this or past presidents have done or said—but by the dedicated efforts of a small group of politicians and pundits who are determined to discredit any president who is unwilling to engineer an American defeat in Vietnam.

So far as Nixon is concerned, the argument is that, since you can't believe anything he says, it is necessary to force him to set a public deadline which would be hard for him to change later on.

But the disbelief of these critics is itself not very believable. They concede that the President has done precisely what he has said he was going to do, as far as Vietnam is concerned. It is hard to avoid the suspicion that the issue of setting a deadline is raised simply because it is something which the President for quite obvious reasons, is not expected to do.

Nixon has explained some of these reasons.

Naming a date, he says, would give the enemy information that he would dearly like to have. The assurance that we will leave Vietnam, regardless of what the Communist leaders do in the coming months, would remove any incentive on their part to bargain for the release of American prisoners or to end the war by negotiation. It would give enemy commanders the exact information they would need to attack our remaining forces at their most vulnerable time.

But there certainly are other reasons as well.

To name a date for a complete American withdrawal would not get the President off the political hook. Many of his critics insist that the only solution for Vietnam is immediate withdrawal—even though in their soberer moments most of them concede that this is a practical impossibility.

Nixon's date, should he name one, would certainly disappoint and possibly mislead a large number of people. He would have to play it on the conservative side, making allowances for the uncertainties that still exist over the performance of the enemy and

the South Vietnamese forces. He has consistently beaten his own schedule for withdrawing troops from Vietnam, and any date that he could name would be at best a guess and a target.

And beyond this, there is the problem of the residual force which probably will have to remain in Vietnam for a considerable time after most of the combat troops have gone. The strong impression is that the composition of such a force and the role which it will be expected to perform have not yet been decided. Indeed it is hard to see how it could be at this time, since the nature of the military problem as it will exist a year from now cannot be foreseen with any great certainty.

The most commonly quoted figure for a residual force is about 50,000 men, presumably volunteers, whose job would be divided between logistics control and advising South Vietnamese forces in the field. But in addition to this, some form of air support may be essential for a time, whether it is based in South Vietnam itself or in Thailand, Guam, or at sea. Nixon's goal, as he says, is the complete departure of all American troops from Vietnam. But this ultimate goal, depending on how the enemy performs, still may be some time off.

For all of these reasons, then, it is wholly unreasonable to demand that the President announce a firm date for a pullout. In fact, it would serve the interests of no one, including Nixon's critics. The question is being raised for no other reason than to embarrass the President. And it is an entirely phony issue.

APPALACHIAN PARK SYSTEM—AN ANSWER TO MEGALOPOLIS

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. RYAN. Mr. Speaker, on the first day of the 92d Congress, I introduced H.R. 1122, to authorize the Secretary of the Interior to study the feasibility and desirability of establishing a park system within the Atlantic Urban Region. Previously, in the 91st Congress, I had introduced this same legislation as H.R. 13040.

The purpose of this bill is to begin the steps which must be taken to preserve and conserve the eastern seaboard as a habitable sector of our Nation. The reason for undertaking this task was very clearly stated in an editorial in the New York Times, on July 1, 1970, referring to my legislation:

Priceless natural and recreational tracts would be spotted in such a study before they could be destroyed.

With population mounting as it is, systematic land use will have to become part of the American scheme before the end of the century. . . .

On September 23, 1970, Dr. John P. Keith, president of the Regional Plan Association, delivered an address at the Open Space Conference of the Union Internationale Des Architectes, Commission for Town Planning, in Washington, D.C. Dr. Keith explained four basic principles to the Regional Plan Association's approach to open space for the New York Metropolitan Region:

(1) Concentrate development to conserve land. (Bring more green into the cities rather

than spread the city throughout developing areas.) (2) Use natural forms—streams, rivers, mountains—to delineate development both within the Region and between metropolitan areas in the Atlantic Urban Region (megalopolis). (3) Determine open space needs for the next 50 years, and (4) Acquire them now with increased annual appropriations and long-term bond issues.

The Regional Plan Association's proposal, which forms the basis for my legislation, is to create a 10,000 square mile Appalachian park system from West Virginia to Vermont. This would put the equivalent of one-fifth of the national park acreage within easy reach of one-fifth of the Nation's population.

I include in the RECORD Dr. Keith's speech. I commend it to my colleagues as a clear articulation of the planning we must now embark upon, lest we continue to despoil the land and continue to cover it over with concrete and buildings.

Dr. Keith's address follows:

ADDRESS OF DR. JOHN P. KEITH

There are four basic principles to my approach to open space for the New York Metropolitan Region: (1) Concentrate development to conserve land. (Bring more green into the cities rather than spread the city throughout developing areas.) (2) Use natural forms—streams, rivers, mountains—to delineate development both within the Region and between metropolitan areas in the Atlantic Urban Region (megalopolis). (3) Determine open space needs for the next 50 years, and (4) acquire them now with increased annual appropriations and long-term bond issues.

CONSERVING LAND

Throughout the U.S., citizens this past year began taking a closer look at such conservation issues as air and water pollution. Few turned their attention to current land use practices which forces our spread pattern of development, so profligate of land and demanding of highways.

In a 1960 study, which we titled *Spread City*, we determined that if the current zoning pattern continued we would use for development in the period 1960-85 as much land as had been used in the preceding 300 years. We are on course, unfortunately.

The Second Regional Plan calls for a tighter form of development to conserve land and make public transportation possible, which would substantially reduce needed highway mileage.

BRINGING GREEN INTO THE CITIES

It is possible that our suburban large-lot zoning, in addition to the usual fiscal issue, is a reaction to the poor quality of our urban environment—to the shortage of green in our inner cities. However, rather than taking the city out into the country we need to bring more green into the city.

This is not as difficult a job, at least in our Region, as it may at first appear. There are valuable natural tracts still open within the most built-up areas which can be captured or reclaimed.

Two sources are readily apparent. Shipping and industry for sound reasons are moving away from our river fronts allowing us to recapture the banks for people use—housing, recreation and parks. At the entrance to every harbor are the old military installations no longer needed for defense purposes.

Heading our list is the Gateway National Recreation Area including two military installations—Fort Tilden on the Rockaways and Fort Hancock at Sandy Hook—undeveloped beach frontage at Breezy Point, Jamaica

Bay and related shorefronts in Brooklyn, Staten Island and New Jersey.

Next is the Palisades south of the George Washington Bridge—about 10 miles of the cliff or some 800 acres; more if waterfront land and land under water is included. Presently neglected and being destroyed by developers some 3 million people look daily from Manhattan at what could be a spectacular piece of green within the heart of the Region.

Also on the list for inner-city natural tracts is the expansion of public holdings of open space in the Greenbelt of Staten Island, portions of the Jersey Meadows, segments of the waterfront of Jersey City and Bayonne. The East River, the Hudson River, the Gowanus Canal can in the future be framed in green. As pollution of our rivers and bays is lessened, valuable segments of Lower New York Bay and shorefront along the Hackensack and Passaic Rivers will be useable for recreation and for open space.

GREEN BACKDROP FOR THE URBAN AREA

While expanding our natural holdings within the older sections of the Region, we must preserve the Region's green backdrop, the Appalachian chain. Regional Plan Association has proposed a 10,000-square-mile Appalachian Park system from West Virginia to Vermont which would put the equivalent of 1/5 of the national park acreage within easy reach of 1/5 of the nation's population. Congressman Ryan of New York has introduced a bill to further refine this proposal.

Essential for our Region is the extension of the Delaware Water Gap National Recreation Area into the Shawangunks. The acquisition of the Minnewaska tract last year by New York State, in response to a campaign led by Regional Plan Association, was a most important step. The northward and southward extension of Bear Mountain Park and the acquisition of ridges in Putnam and Dutchess Counties are strategic next steps. All told we see the need of public acquisition of 1,400 square miles of the Appalachian Highlands.

URBAN OPEN SPACE

Nor, in devising a metropolitan open space system, can we ignore the needs of those built-up areas where no parks exist. While that topic was taken up at a separate session, I would like to mention Regional Plan's recommendations for building in open space as we reconstruct our old cities.

A "coat pocket park" is better than a "vest pocket park." On sites cleared through demolition we should strive to attain parks of 3-5 acres, to create a green environment and a sense of space, not an asphalt lot indistinguishable from an unused parking lot.

Though every recreation area needs some green, not every green needs recreation. New swimming pools and play fields should be created primarily on the site of demolished buildings where they will be much more useful to people and not encroach on existing green.

ADVANCE ACQUISITION

While we have seen a considerable increase in the expenditure for open space in the past decade both by the states and the federal government, it is nowhere near what is needed to capture significant open space in advance of development.

All of the open space that we believe necessary for the next 50 years should be acquired now and paid for out of both increased expenditures and large bond issues. No matter how high the interest rate, the cost will be less now than if we attempt to acquire sites after development and the areas will be less pock-marked with strip roadside development and unplanned second home communities.

We must also determine priorities. Unique ecological areas in the path of urbanization

are a must. Mountaintops are easy to get and relatively inexpensive. But ocean beaches, bayfronts and lakefronts are fast slipping away from the public.

RPA's proposal for an Appalachian Park system—a green backdrop for the urbanized Seaboard protecting the Mountain chain from Virginia to Vermont—would roughly double present state and federal open space holdings outside the most built up parts of the Atlantic Urban Seaboard. The cost is estimated at \$1.3 billion at an average of \$200 per acre. To provide the most extensively built up segments of the Urban Seaboard with parks that would leave one-quarter of the area green, present federal, state and county holdings would have to be almost tripled, for an increment of 4,500 square miles of public open space. At an illustrative cost of \$2,000 per acre in the suburbs, this would come to about \$5.7 billion. The total land acquisition cost—for the outer areas and heavily developed areas—with current dollars and current land prices—is \$7 billion.

If such a program is to be carried out over a period of 20 years (since most of the land will otherwise be preempted), the annual expenditures for public open space acquisition in the Atlantic Urban Seaboard would have to reach \$350 million. By contrast, the current level of expenditure for open space acquisition in the 13 states affected has been somewhat over \$20 million annually. At that rate, acquisition would take us 350 years.

In parts of our Region, we are doing slightly better. Regional Plan in conjunction with Pattern for Progress and the New York State Urban Development Corporation, recently completed a development plan for a seven-county Mid-Hudson area. It proposes the same ratio of planned, publicly owned open space in an urbanized area, one acre out of every four, to meet the urban development we anticipate will take place in that portion of the Region, to protect valuable natural areas and to provide a green belt defining the northern fringe of the New York Urban Region.

This would require the addition of about 800 square miles of open space to the present holding of about 500 square miles. New York State, under one of the most aggressive acquisition programs, has been acquiring land at the rate of 3 square miles per year. Our proposal requires an acquisition program of 26 square miles per year, at an annual cost of \$8-\$10 million per year. At the present rate of acquisition, it would take us only 260 years to meet the goal set out in the development program.

One answer might be that we expect too much and should cut the program to meet "more realistic" levels of expenditure. If there is anything that RPA's 40 years of effort has shown, it is that the public, when given leadership, will respond to bold programs.

Less than 10 years ago, Regional Plan Association completed *The Race for Open Space*. It produced 5 bond issues in the 3 states, the first federal assistance for local park acquisition, 8 of 10 proposed large regional parks—adding 80 square miles to the Region's open space, a 30% increase over what prevailed in 1959.

When we led the public campaign to secure Breezy Point on the Rockaway Peninsula, a park where the people are, we were told that it would be too expensive. Breezy Point now has been enlarged to the Gateway National Recreation Area, mentioned earlier, which will add a quarter of a billion dollars to the recreation facilities of the Region—and at the point where such facilities are most needed. It culminates three years of effort on our part of slowly developing understanding. It marks the beginning of a new era of federal involvement in urban recreation.

The response to our 10,000-square-mile Appalachian Park proposal even has amazed us.

Our most recent effort involved saving from development a 10,000 acre tract in the Shawangunk Mountains of New York State, targeted 10 years ago as the central portion of a new, large regional park. Conservation organizations, newspapers throughout the Region, legislators and public officials all joined in the effort, knowing how crucial this one piece was to the larger concept.

Whether it is official, or unofficial as ours is, the public must see a program, a plan, the end product of which they can understand, which can gain adherents, and which can take advantage of propitious moments for action, as at Minnewaska.

THE POPE, TITO, AND COMMUNISM

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. RARICK. Mr. Speaker, the recent papal declaration, accredited to Pope Paul VI, must be considered indicative of the revolution of change and tolerance reaching the leadership of the Roman Catholic Church.

For certain, the activities and news excerpts offer tremendous propaganda potential to the Communist conspiracy. The faithful are reminded:

See to it vernal brethren that the faithful do not allow themselves to be deceived! Communism is intrinsically wrong, and no one who would save Christian civilization may collaborate with it in any undertaking whatsoever," (from Pope Pius XI, Encyclical letter on Atheistic Communism).

Informed Christians who have followed Pope Paul VI in his softening attitude toward Communist collaboration were not surprised at the latest way his position has been used.

On March 29 of his year, Pope Paul VI received the Yugoslavian Communist dictator, Marshal Tito, in an official visit to the Vatican. This was the first official visit ever granted by any pope to a Communist head of state. Reportedly the red star Communist flag of Yugoslavia flew beside the yellow and white pennant of the Holy See, and a receiving line composed of the Vatican's top prelates was turned out for this audience. News dispatches from Vatican City the following day reported Tito as stating the Pope shared his commitments to stamp out colonialism, discrimination, and racism, and to bridge the gap between rich and poor nations.

Americans and Christians the world over can but ponder the significance of this new showing of peaceful co-existence in Rome, the softening of Washington on Red China, and the July program for Chief Justice Burger to be in Belgrade, Yugoslavia, with Chief Justice Gorkin of the Soviet Union.

The world power structures are all giving the appearance of yielding to Communist collaboration in the name of world peace. Time alone will tell whether the people will accept and follow their leaders and collaborate in tyranny and world enslavement.

I insert several news clippings and an article from the Herald of Freedom:

[From the Washington (D.C.) Post, May 13, 1971]

POPE URGES ACTIVISM ON SOCIAL PROBLEMS (By William R. MacKaye)

In a major papal declaration to be issued Friday, Pope Paul VI asserts that Christians should not back off from the problems that assail the world but should involve themselves actively in meeting the needs of the day.

The fact that some persons embrace ideological positions incompatible with Christianity, notably Marxists and proponents of unbridled liberalism, should not necessarily discourage Christians from cooperating with them, the pontiff adds.

But, he warns, Christians should at the same time be on their guard not to go beyond this cooperation into becoming beguiled by philosophies that may be not only dangerous but also inadequate to deal with the complexities of life.

This summons to believers to participate in social reform while at the same time keeping their sights set beyond the visible horizon forms the backbone of the 12,000-word document.

The document became available to a number of newspapers Tuesday and yesterday.

While the pontiff obviously intends the wide-ranging document to be studied with care, it is cast in the form of an "apostolic letter" rather than the more definitive form of an encyclical.

One expert, commenting on this choice of format, said the document's often tentative tone and its specific reference to the forthcoming Synod of Bishops suggested that the pope was offering not a "last word" but his contribution to a hoped-for dialogue with other bishops and with the rest of the world.

The letter's intended date of issuance was timed to coincide with the 80th anniversary of the issuance of "De Rerum Novarum" (Of New Things), an encyclical of Pope Leo XIII that initiated modern Catholic social thought.

Pope Paul addresses his new letter to Maurice Cardinal Roy, the Canadian who heads the Vatican Council of the Laity and the Pontifical Commission on Justice and Peace.

In the document Pope Paul refers repeatedly to the necessity of improving the lot of the poor.

"The Gospel instructs us in the preferential respect due to the poor and the special situation they have in society," he notes at one point.

"The more fortunate should renounce some of their rights so as to place their goods more generously at the service of others."

He also makes it clear that Christians are not doing enough by simply saying the right things.

"It is not enough to recall principles, state intentions, point to crying injustices and utter prophetic denunciations," he writes. "These words will lack real weight unless they are accompanied for each individual by a livelier awareness of personal responsibility and by effective action."

In the letter Pope Paul touches on a variety of specific contemporary developments, many of them particularly characteristic of the European milieu. He moves from this into discussion of ideologies, offering specific critiques of Marxism, untrammelled liberalism and positivism.

Finally, and frequently in tentative tones, he develops his theme of the Christian who engages himself in reforming the world while steeping himself in the principles of his own tradition.

In a typical passage, the pontiff warns of the hazards of utopianism but speaks of its values:

"The appeal to a utopia is often a convenient excuse for those who wish to escape from concrete tasks in order to take refuge in an imaginary world. To live in a hypothetical future is a facile alibi for rejecting immediate possibilities.

"But it must clearly be recognized that this kind of criticism of existing society often provokes the forward-looking imagination both to perceive in the present the disregarded possibility hidden within it, and to direct itself toward a fresh future."

He calls upon the nations to abandon force as an instrument of international policy, declaring, "Relationships based on force have never in fact established justice in a true and lasting manner."

In one comment that seems likely to be noticed particularly by Americans, the pontiff appears to recommend government control of the news media.

The "media of social communication" spread education and culture, but also represent a new power, the pope says. He notes that the men who control them have "a grave responsibility with respect to the truth of the information that they spread . . . and the values which they put forward."

Then he goes on to suggest that "public authorities" should take "suitable steps to prevent the spread (through the media) of what would harm the common heritage of values on which orderly civil progress is based."

Among other topics he suggests as proper for Christian study and action are the rapid and sometimes dehumanizing growth of cities, the deepening environmental crisis, racism and the right of migrant workers to sink roots where they find their employment.

[From the Washington (D.C.) Post, Mar. 30, 1971]

TITO SEES POPE, IMPROVES TIES WITH ITALIANS (By Don. M. Larrimore)

ROME.—President Tito of Yugoslavia tonight ended his five-day visit to Italy in which he strengthened his bridges across the Adriatic to both Italy and the Vatican.

Pope Paul VI this morning received Tito with full ceremony in the first formal papal audience ever granted a Communist chief of state. Accompanied by his wife Jovanka, Foreign Minister Mirko Tepavac and other officials, Tito spent two and a half hours in Vatican City, which included a 90-minute private conversation with the Pope.

In his prepared address, evidently given ritual clearance by the Vatican, Tito pledged Yugoslavia's "maximum efforts to contribute, within the limits of its possibilities, to a peaceful settlement of the (Mideast) crisis, so that the consequences of the war of aggression of June, 1967, can be eliminated and so that all people and countries of that region can live in peace and security."

Tito said he was pleased that the Vatican's attitude on major international issues was "close or identical" to Yugoslavia's, and praised the Pope for his "support of people under colonial domination struggling for liberation and the liquidation of all forms of racial discrimination."

A Yugoslav source said that as the 78-year-old Tito nears the end of his rule his major concern is that his country might split into separate republics, and that he wanted the Vatican to propagandize for national unity and brotherhood among Yugoslavia's 6 million Catholics and 16 million non-Catholics.

[Two of Yugoslavia's six constituent republics—Croatia and Slovenia—are solidly Roman Catholic. They are also economically and culturally the most advanced areas. In recent years they have demanded a greater autonomy from Belgrade, complaining that they are being discriminated against by the more backward republic of Serbia, Macedo-

nia, Montenegro, and Bosnia and Hercegovina.

[The four backward republics have total population of nearly 16 million, which is predominantly Eastern Orthodox. Tito has repeatedly called for national unity, warning that if greater autonomy were granted to Slovenia and Croatia, could create nationalist conflicts that would endanger the federation.]

There was none of this strong language in Pope Paul's formal reply or the limited official summary of his private remarks. The Pope "noted with interest" Tito's statements and assured him of his continuing interest in negotiated settlements in the Middle East and Indochina, as well as in initiatives to promote European security.

Pope Paul promised Tito that the Catholic Church in Yugoslavia would not "interfere" in the state's domain, asking only the "legitimate right to exercise its spiritual ministry" under the rapprochement formalized last August with the re-establishment of diplomatic relations between Belgrade and the Holy See.

Privately the Pope was reported to have raised the question of religious education (no church schools or such other formal organizations as Boy Scouts or Catholic Action are permitted in Yugoslavia), and the possibility of church access to state-run mass media, including television.

Although the 78-year-old Yugoslav leader restated his anti-Israeli feelings here publicly, he impressed his hosts, President Giuseppe Saragat, Premier Emilio Colombo and the pontiff, with Belgrade's determination to play a constructive role in averting a new Middle East war. And Tito left high hopes that a range of bilateral problems with Rome and the Holy See can be amicably negotiated in the spirit of "coexistence."

Pope Paul also noted that Yugoslavia today is "extending its sphere of international influence beyond the frontiers of Europe." This may have referred partly to mainland China, where Yugoslavia has recently been mending fences shattered by years of animosity.

[From the New York Times, Mar. 27, 1971]
TITO ON PIAZZA VENEZIA

For anyone who remembers how close to war the Trieste dispute led Yugoslavia and Italy twenty years ago, the spectacle was hard to credit. Here was President Tito of Yugoslavia receiving the keys of the city from the Mayor of Rome at the Colosseum then moving on to Piazza Venezia to draw polite cheers from Italians as he placed a wreath at the tomb of Italy's Unknown Soldier.

It is true that the spiritual heirs of Benito Mussolini had put up posters protesting Marshal Tito's visit and bombs were exploded in northern Italy; but no one was hurt and it seemed clear that most Italians were unwilling to be provoked anew by a boundary dispute they regard as having been resolved with finality in 1954.

In his airport welcome, President Saragat called Marshal Tito "a statesman of highest prestige in the world," but the 78-year-old Yugoslav leader's response was more to the point. He hailed today's growing ties between Italy and Yugoslavia as "an example to show how not only fruitful economic relations but also fruitful political relations can be established between two countries with different systems."

Either leader might have added the most pertinent point of all: those flourishing relations demonstrate that with patience and goodwill it is possible in this imperfect world to resolve to mutual satisfaction a problem that seems to be not only intractable but to carrying within it the seeds of a

third World War. The symbolic significance of President Tito at the Victor Emmanuel monument should not be lost on cynical statesmen and weary diplomats.

[From the New York Times, Mar. 30, 1971]
TITO MAKES PLEA FOR ARABS IN TALK WITH POPE

(By Paul Hofmann)

ROME.—In a 75-minute audience surrounded by Vatican pageantry, President Tito of Yugoslavia and Pope Paul VI today discussed the Middle East, East-West affairs and other international problems.

President Tito was the first Communist chief of state to pay an official call on the head of the Roman Catholic Church. A visit by the Soviet President, Nikolai V. Podgorny, to Pope Paul in the Vatican in 1967 was described as private.

Churchmen said today that the Yugoslav leader in his talk with the Pontiff had made a strong presentation of the Arab case in the Middle East conflict.

President Tito, who ended a five-day visit to Italy today, conferred near Pisa on Saturday with the Foreign Minister of the United Arab Republic, Mahmoud Riad.

Pope Paul reportedly restated the Vatican's request for an internationally guaranteed special status for Jerusalem and other holy places in Palestine.

RED STAR ON FLAGS

The Vatican, for the first time in its history, displayed the Communist Red Star—it appears on the Yugoslav flag, which was flown atop buildings and poles in the papal state.

Only interpreters were present while Pope Paul and President Tito, wearing a talcoat and carrying a top hat, conferred in the Pope's private library on the second floor of the Vatican's Apostolic Palace.

At the end of their talk President Tito's wife, Jovanka, wearing a black dress and veil, Foreign Minister Kirko Tepavac and other aides were called in for the formal part of the audience.

President Tito delivered an address stressing that Yugoslavia had a vital interest in lasting peace in Europe and in the Mediterranean area.

"It is therefore understandable that we devote special attention to the crisis in the Middle East and to the grave dangers inherent in it," the Yugoslav President said in Serbo-Croatian.

CLOSENESS OF VIEWS

President Tito also voiced concern about recent developments in Southeast Asia and Africa. He noted that the views of Yugoslavia and the Vatican on the major international problems were "close or identical," and expressed the hope that their relations might continue to develop favorably.

In his reply Pope Paul, speaking in Italian, expressed his "respect and affectionate esteem" for Yugoslavia, with its many Roman Catholics. President Tito himself was born in a Catholic family. Recalling that Yugoslavia's people had often in history undergone trials and adversities, the Pope remarked that their vocation was to be a bridge between different and often conflicting cultures.

Pope Paul noted that under President Tito's guidance Yugoslavia had extended her international influence even outside Europe, and praised what he termed his visitor's efforts for peace and better international understanding. He did not refer to the Middle East.

After the speeches President Tito gave the Pope a modern Yugoslav sculpture of the Virgin Mary with the body of Jesus and was presented with an 18th-century Roman landscape painting.

[From the Evening Star, Mar. 29, 1971]

TOP-HATTED TITO VISITS POPE PAUL FOR AN HOUR

VATICAN CITY.—Wearing a top hat and tails, President Tito of Yugoslavia went to the Vatican today and conferred with Pope Paul VI for more than an hour. Both expressed concern about conflicts in Indochina and the Middle East.

Tito is the first Communist chief of state to pay an official visit to the Roman Catholic pontiff.

The Pope, according to a Vatican communique, told Tito he would keep trying to foster "a negotiated and fair solution of the conflicts in the Middle East and Indochina, which would give tranquillity to those populations."

Tito told the Pope that Yugoslavia is committed to seeking peace in the Middle East in order to eliminate "the consequences of the war of aggression of 1967."

He said his country would also work to eliminate the use of force and discrimination. He deplored "latest developments" in Southeast Asia and Africa, two areas where he said, "entire nations are exposed to great suffering and deprived of elementary rights by the brutal use of force."

The Pope said he followed with "attention" the efforts to reach relaxation of tensions and security in Europe, meaning the controversial Soviet initiative to promote a European-wide security conference.

The Pope praised Tito for seeking "peace and international collaboration." He also assured all Communist governments that the Church forswears interference in the affairs of any state.

He hailed the improving relations between the Vatican and Yugoslavia as an example of how the Roman Catholic Church and Communist countries can live peacefully together.

"The Church demands nothing but legitimate liberty to exert its spiritual ministry and offer its loyal services to men—both individual and in community—outside of all other personal interests alien to its religious and moral mission," the Pope declared in a formal address he read to his visitor.

Tito, speaking without a prepared text, said he and the Pope had "similar or identical" views on international problems and the need to solve them with peaceful coexistence.

He said Yugoslavia is committed to seeking peace in Europe and especially in the Middle East. But he took a slap at Israel, saying a settlement in the latter region must "eliminate the consequences of the war of aggression of 1967," a reference to Arab lands occupied by Israel.

Tito also deplored "latest developments" in Southeast Asia and Africa where, he said, "entire nations are exposed to great suffering and deprived of elementary rights by the brutal use of force."

Like the Pope, Tito praised the friendly relations between Yugoslavia and the Vatican and said he hoped they would grow closer still.

In an exchange of gifts, Tito gave the Pope a bronze statuette of the Madonna and Child by a Yugoslav sculptor, while the Pope gave Tito—a former Catholic turned atheist—a 17th century landscape of Rome.

The Pope shook hands with the 78-year-old Yugoslav leader and his wife, Jovanka, at the door of the papal apartment in the Apostolic Palace.

FLAGS ALONGSIDE

Thousands of police sealed off St. Peter's Square and lined the route of the motorcade. But there were no demonstrators and few spectators to see the Vatican limousines flying the yellow and white pennant of the Holy See alongside the red star of Communist Yugoslavia.

[From the Christian Science Monitor—
Mar. 31, 1971]

TITO'S VISIT TO ITALY TERMED SUCCESSFUL
(By Thomas Sterling)

ROME.—Both Italians and Yugoslavs regard the five-day visit of President Tito to Italy a success.

Yet, on four central questions discussed—and one swept under the rug—the major Adriatic powers apparently are in complete accord on only two.

The points of agreement seem to be of an economic nature. Italy is Yugoslavia's second largest trading partner, after West Germany. In the first 10 months of 1970 Italy imported from Yugoslavia slightly less than \$230 million worth of goods, while exporting to Yugoslavia nearly \$335 million. Both nations are interested in expanding this trade.

Yugoslavia wants Italian economic participation to construct a highway network, a gas pipeline from Russia to Italy across Yugoslavia, and industrial projects backed by Fiat and Montedison.

BASIC DIFFERENCES

In the international field, Yugoslavia wants Italy's support within the European Common Market, where it already has an agreement for exporting beef. With Italy's help, it might move further into the charmed circle. On both of these points, Italy probably can be counted on for firm support.

Two other questions, however, are fundamentally contested despite the polite official language.

Yugoslavia is known to favor a European security conference as soon as possible, starting with a preliminary meeting of ambassadors in Helsinki. Italy's stand is in concert with NATO. Without goodwill moves from Moscow on the question of Berlin, a security conference would not be in order, Italy insists.

Both nations favor United Nations peace moves in the Middle East, and a prolongation of the mission of UN mediator Gunnar V. Jarring. However, it is no secret that Yugoslavia—though assertively nonaligned—is strongly on the side of Cairo, as is the Soviet Union.

Italy has a more demonstrably non-aligned position between Cairo and Israel, and could hardly endorse Yugoslavia's position without compromising its own. Both nations, however, would like to see the Suez Canal reopened.

On the day after President Tito arrived in Italy, the Foreign Minister of Egypt, Mahmud Riyad, dropped by on his way to a foreign ministers' conference in Paris. He spoke to President Tito briefly. The initiative appeared to come from Mr. Riyad—not the Italian Government, which may even have been slightly embarrassed. The Italians took the visit coolly enough, however.

An extra guest is always welcome to dinner—even a dinner as delicately timed as this one.

After Tito's abrupt cancellation of his trip to Italy last December, because of the still-tricky question of the sovereignty of Zone B in the Trieste area, both sides were extremely careful to keep that question under the rug, while showing as much identity of opinion on other matters as possible. The Zone "B" question remains, however.

SUCCESS SEEN EVENTUALLY

President Tito, in an exchange of toasts with the Italian President, even referred to it indirectly when he said "... in the spirit of our existing friendship, we will succeed, I am sure, in resolving also that which has remained open in our relations." Tito also praised the agreements between the Soviet Union and West Germany, and Poland and West Germany; "The particular importance of these agreements consists in a definite recognition of existing confines." The remark

also might have applied to Zone B which the Yugoslavs claim.

President Tito, as the only Communist leader who maintains official contact with the Vatican, took advantage of the opportunity to visit the Pope. The Pontiff also is reported deeply interested in a European security conference and in the situation in the Middle East, especially the status of Jerusalem.

[From The Herald of Freedom, May 14, 1971]

POPE HOSTS COMMUNIST

In a most impressive ceremonial—with Swiss honor guards and Yugoslav flags flapping at the entrance to the apostolic palace, Yugoslav Communist President Tito was received by Pope Paul VI on March 29, 1971. Tito was the first Communist head of state ever to make an official visit to the Vatican. Anti-Communists and conservative Catholics in and out of the Vatican were shocked that the Pope would receive a Communist leader known to have caused the torture and murder of thousands of Christians. A UPI dispatch stated that a receiving line of the Vatican's top prelates was on hand to greet the Communist leader.

Press dispatches reported that Tito told the Pope he was fully aware of the Pope's support given people under colonial domination in their just fight for independence and the end of all forms of racial discrimination. Tito expressed serious concern about the South East Asia (Vietnam) situation. A UPI dispatch from Vatican City the following day quoted Tito as stating that he was committed to stamp out colonialism, discrimination and racism and to reduce the gap between rich and poor nations. These were policies shared by the Pope, Tito told the press, and added, "I am happy to be able to state that the points of view of the Holy See and Yugoslavia on major international problems, and the necessity of resolving them on the basis of peaceful coexistence, are close or identical." Since neither Tito nor any other Communist leader has ever renounced the Communist goal of world domination, the so-called freeing of people from colonial domination, in Communist vernacular, means drawing them under Communist control.

It is a known fact that Christian clergy in every Communist country are completely subservient to the Communist government. In each of the Communist police states there is a Commissar of Cults (or equivalent position) who controls all religious affairs. Those clergymen who openly oppose atheism, Communism or the International Communist Conspiracy are not permitted to function. They are either under house arrest or in prison. It is also known that in the 1930s, on orders from Moscow, Communists infiltrated into Christian seminaries for the purpose of destroying Christianity from within. Certainly these facts are known to the Vatican. In Czechoslovakia in 1947 a United Press journalist, David DeLuce made an investigation and wrote a series of articles, excerpts from which follow:

"Father Josef Straka, Slovakian Catholic priest and a member of the Communist Party, talks with Catholic Sister Humiliis, a religious teacher in the public schools of Bratislava. Father Straka . . . is the general director of Catholic cultural affairs in the Czechoslovakia school system.

"A Catholic priest with a Communist Party membership card in his pocket is fighting today in Slovakia to distribute 1,000,000 acres of church land to the peasants. . . . Some 35 of the 2,000 priests in Slovakia, Father Straka said, have followed his example and espoused Communism. . . . 'I did it,' he added, 'after receiving a letter from my superior, Bishop Andrej Strabik of Banska, Bystricka, who wrote me in August, 1945, that he had not told me not to take part in the Slovak up-

rising against Nazism and he would not tell me not to join the Communists.' As the leading clergyman to enter their movement, Father Straka was promptly appointed by the Communists to be general director of Catholic cultural affairs in the Slovak state school system. . . . Here he has waged a campaign to dispossess the church of its agricultural holdings, put all priests on the government payroll as fulltime employees.

"A constant stream of nuns in long black robes and black-coated clerics passes through Father Straka's Bratislava office. All religious instructors in the public schools are under his administration. At 43, with sandy hair, horn-rimmed spectacles and gray business suit, he looks as prosaic as a corner druggist. But he started his Communist career back in 1941, the year that Russia was invaded, by joining an illegal underground resistance movement to the government of another Slovak priest, Father Josef Tiso. All of Father Straka's family fought the Germans in 1944. . . . A year later, Father Straka was formally issued membership card No. 93,294 in the Slovak Communist Party, although he said he considered he had been in the party from the very beginning of his underground work in 1941.

"Asked if he agreed with the hanging sentence passed upon Father Tiso and executed last Spring, he nodded. 'Justice was done 100%' he said. 'Tiso could have saved his life if he had been repentant. But he told the court he would do the same thing again, if he had his life to live over—collaborate with Nazism and fight against Communism.'

In Rumania, it was disclosed by the Rev. Richard Wurmbrand who spent many years in prison in that country, that the individual who actually controls the Catholic Church and its affairs is a known Communist. Rev. Wurmbrand pointed out that the only Protestant and Catholic clergymen permitted to function were those who were cooperating with a Communist state, and cooperation means promoting, directly or indirectly, the objectives and programs of the Communist government.

In the Soviet Union the high official of the Russian Orthodox Church, Metropolitan Boris Nikodim, has been exposed as a trained professional member of the KGB, the Soviet Secret Police. Christians the world over have been shocked and saddened at the failure of the Roman Catholic Church to take a stand against atheistic Communism as it did under the pontiffs prior to John XXIII and Paul VI.

Constant reports, which obviously must be known to the Vatican, are received and publicized concerning the involvement of clergy in revolutionary activities, guerrilla warfare and subversion throughout Latin America, in parts of Spain and in Africa. Even in the U.S., where only a few years ago the Catholic Church spoke out against atheistic Communism, the subject of Communism has become too controversial and bishops and priests support pro-Communist peace movements, Marxist grape strikers, radical black revolutionary movements. It would be naive to say that they do not know what they are doing.

This past fall there was a four-day conference on the subject of Capitalism in the '70s held in the Catholic Economics Institute, Tilburg, the Netherlands. Over 1,000 clergy and laymen participated. One of the speakers was none other than Victor Perlo, American identified Communist, prolific writer for Communist publications and exposed head of an espionage ring which operated in Washington, D.C. Another speaker at the conference was radical Marxist Ernest Mandel of Belgium, on whose behalf federal judges in Brooklyn struck down a portion of the McCarran Act which prohibits subversives from coming into the U.S.

Some of those present endeavored to re-

ject the conference report of Victor Perlo; however, in a conference vote, Perlo's papers were accepted by a four-to-one vote. Whereas Trotskyite Andre Gorz of France urged violent workers revolutions, Communist Perlo urged "unity and the use of varied tactics, including parliamentary, in the struggle for the immediate needs of the working people and for peace and socialism." This statement, translated from the Marxist jargon, means conducting a revolution by subversion and the "take-over from the top." This method avoids exciting the population until it is too late for them to offer successful resistance.

It is no secret that the Vatican, through its Apostolic Delegations and hierarchy, receives reports of activities concerning political affairs throughout the world. That Communists are permitted to hold seminars in Catholic institutions, lecture in Catholic colleges and promote their philosophy, must be known to the authorities in the Vatican. In the Roman Catholic Church, a priest who promotes or cooperates in promoting Communism is responsible to his Bishop and the Bishop is obliged to correct him. If the Bishop fails to act or shares the priest's activities, he must answer to the Apostolic Delegate or Vatican Commission.

If these authorities fail to take action, only the Pope can take the corrective measures which apparently are not being carried out. There is, however, a higher authority to whom all Christians must answer, and to whom they can appeal. With the clergy throughout the world failing so miserably in their religious vows, with the widespread perversion and subversion, God's intervention may be the only remedy. Jesus Christ told his followers (and thus the world through Sacred Scripture), "He who is not with me is against me." How many of our so-called Christian clergy are "with Him?"

OPINION RESEARCH POLL—BIASED?

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. WILLIAM D. FORD. Mr. Speaker, on Tuesday of this week, the mail brought to my office the results of a "national poll" purportedly demonstrating that a majority of the American people do not really favor a withdrawal of American troops from Southeast Asia by the end of this year.

I was somewhat intrigued, since every recent poll I had seen shows quite the opposite result. I looked over the questions asked in the so-called survey, and found them so absurd that I threw the whole thing in my wastebasket.

To my amazement, I found the survey results printed in that day's proceedings of the RECORD under the name of my distinguished colleague, the honorable minority leader. He evidently had access to the results before me, and had hastened to put them in the RECORD.

The minority leader, in a statement accompanying the survey results, commented that the poll had been conducted by the "highly respected" Opinion Research Co. of Princeton, N.J.

The opinion research firm may well be highly respected, but largely, I suspect, in Republican and conservative circles. It was retained to make an eight-State poll for the Nixon campaign in

1968, and did a survey for the American Farm Bureau in 1966 to prove that most Americans favored retention of the anti-labor 14(b) section of the Taft-Hartley Act. A few years earlier, it conducted a survey for the National Right To Work Committee, an anti-labor group dedicated to eliminating the legal union or agency shop.

With a track record such as this, it is not surprising that Opinion Research phrased its questions with care to elicit a response favorable to President Nixon's apparent intention to ignore public demands for withdrawal of our troops this year.

The absurdity of the poll is shown in these two questions:

First. "Would you favor withdrawal of all U.S. troops by the end of 1971 even if it meant a Communist takeover of South Vietnam?"

Second. "Would you favor withdrawal of all U.S. troops by the end of 1971 even if it threatened the lives or safety of U.S. POW's held by North Vietnam?"

Quite naturally, a majority voted "No" on each question—55 percent on the first, and 75 percent on the second. I am surprised that the percentages were not even higher on both questions, which were obviously phrased to obtain a negative response.

Another question was: "Do you support President Nixon in his plan to end the war in Southeast Asia?"

Seventy-two percent of the replies were "Yes," but I wonder how many of them know what President Nixon's plan is. So far as I can determine, his only plan is to substitute Asians for Americans in the casualty lists, and withdraw enough troops sometime in the next 18 months to placate voters before the 1972 election. What his plan calls for after the election, nobody seems to know.

I suspect that the great majority who voted yes on this question were voting actually on the three words—"End the War."

Probably the only significant part of the poll was this question:

"A proposal has been made in Congress to require the U.S. Government to bring home all U.S. troops before the end of the year. Would you like to have your Congressman vote for or against the proposal?"

Sixty-eight percent of the replies were "Yes," and only 20 percent were "No," with 12 percent having no opinion. This is closely in line with my own recent survey in my home district, which showed 61 percent in favor of withdrawing our troops this year. A nationwide Gallup poll in January showed that 73 percent of the American public favors withdrawal this year.

I am much more inclined to give weight to the Gallup Poll results and my own survey results, rather than the Opinion Research poll with its biased questions designed to draw a predetermined answer.

Mr. Speaker, this Congress certainly should not operate in the manner of a weather vane, shifting position in response to the changing winds of public opinion. However, in a democratic society, it is certainly fitting that elective

officials give strong consideration to the wishes of the people.

As a cosponsor of legislation seeking total withdrawal of American troops from Southeast Asia by the end of this year, I am satisfied in my own mind that I am taking both the right position and the position which is supported by the vast majority of Americans.

ISRAEL INDEPENDENCE DAY, MAY 15

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. ROONEY of New York. Mr. Speaker, throughout the whole civilized world millions of people are feeling a glow of thanksgiving as well as pride as they observe the 23d anniversary of Israel's independence on Saturday. Not only world Jewry and the patriotic people of Israel celebrate this historic event, but thousands upon thousands of non-Jews recall with deep emotion the historic event which took place in Tel Aviv on May 15, 1948, when the British mandate of Palestine ended and Israel became a sovereign nation.

For those of us in this country who participated in those days in the complex and arduous tasks of bringing into being an independent Jewish homeland, this date has great significance. It serves to remind us of the great men and women who gave unstintingly of their time, their energy and their personal fortunes to achieve the long-sought goal of ending the exile of Jews which had persisted for centuries.

This anniversary has particular meaning to those of us in Congress who labored hard and long to enact the legislation needed to establish this new nation and to give it the economic and political guidance and assistance which would assure its successful development into an independent and respected member of the Council of Nations.

I doubt that any of us have had any more rewarding results of our legislative efforts, than to witness year after year the phenomenal development of the comparatively youthful State of Israel. For the rapidity with which Israel has developed her economic resources, the breadth with which she has expanded her cultural influence and the stability with which she has molded her political influence and stature has far exceeded the fondest hopes which any of us held for her future.

In less time than the span of a generation the people of Israel have performed miracle after miracle in reaping bountiful harvests from erstwhile desert soil and in creating a sound and expansive production and distribution program. We continue to marvel at the constant gains which the industrious people of Israel have obtained in improving their own living conditions while at the same time responding to the increasing demands for more costly and more extensive military protection.

Mr. Speaker, we can all be proud of the part each of us has played in the establishment and subsequent development of this small but mighty nation for we have earned the right to join with our Jewish friends in observing the anniversary of this meaningful event. We all wish, however, that today's celebration of Israel's independence might be conducted in peace without hostilities or the threat of war detracting from the happiness and full enjoyment of life by the people of Israel.

In reaching its majority just months ago, Israel has not done so without the trials and tribulations which are an integral part of the process of growing up. But Israel has met these growing pains with great calm and commendable good judgment. It has been remarkable indeed that few of Israel's pains and aches have come from internal strife or dissension but rather it has been a unified people joining in remarkable oneness to oppose external attempts to jeopardize the nation's security and well-being. May this solidarity and this unity of purpose continue among these people who now so proudly celebrate their Independence Day. Mr. Speaker, I congratulate the people of Israel and their leaders for their unmatched achievements over the relatively few years of their national life. I congratulate, too, our great American Jewish leaders who have given themselves so wholeheartedly to assuring the swift and stable establishment of a Jewish homeland. I am proud to have been associated with them in this great humanitarian endeavor and I am proud to join them in Saturday's observance.

MR. FRIEDMAN AND AN ECONOMIC APPROACH TO POLLUTION CONTROL

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. ASPIN. Mr. Speaker, I am including in the RECORD today an article by Peter Maiken, which appeared in the Chicago Tribune Sunday magazine on April 12, 1970. The article is primarily an interview with noted economist Milton Friedman on an economic approach to solving the problems of pollution control. I urge my colleagues to read this important article, which follows:

[From the Chicago Tribune Sunday Magazine, Apr. 12, 1970]

MR. FRIEDMAN AND AN ECONOMIC APPROACH TO POLLUTION CONTROL
(By Peter Maiken)

There was once a time when everybody was against sin, altho this is no longer true. Now everybody is against pollution. Suburban activists gather at stormy meetings to protest dirty air and water, then after being properly fired up, drive home in their rumples, smoke-spewing 1963 station wagons. School children are taught that air and water cleanliness is next to godliness, whereupon they adjourn to the candy store and proceed to strew home and school yard with snack wrapper and soda can. Decent peo-

ple the country over heat their homes, grill their meat, burn rubbish, and drive cars in such a manner as to befoul the very atmosphere they breathe. Many are uncertain about whether it's good to eat Polish hams or California grapes, but there's little doubt they all deplore pollution. Not their own—mostly the kind that spews from the stacks or drains at U.S. Steel and Commonwealth Edison. Being against sin is just too old hat. Being against pollution is to be *now*.

Milton Friedman is against pollution. He is also a polluter, and as an economist, he is able to say without hesitation that you are, too. Friedman has no special qualifications to deal with technical aspects of pollution, and we didn't ask him to do so. His field is economics, which makes him competent to deal with those questions of pollution that are commonly ignored: What does it cost, and who's going to pay to clean it up?

When Friedman speaks as an economist—and as an independent thinker—people usually sit up and listen. Some of his colleagues are outright Friedmanites. Others are merely Friedmannesque. Even those who are neither, however, can hardly ignore him.

He is often labeled a conservative economist. This is questionable. The existence of conservative economics is just as debatable as the existence of black aerodynamics. Politics and ideology aside, you either know economics or you don't. And Friedman is obviously one who does. He has never been one to acquiesce in typecasting, probably because it is more fun being a maverick.

In 1952 he was urging the abolition of the federal reserve board for its misuse of monetary policy. Then he proposed the negative income tax as an answer to what has become known as the welfare mess. At the height of the shooting in Viet Nam, he was calling for an end to the draft and creation of a professional army of highly paid soldiers. Conservative? Who knows? Who cares?

When Friedman talks in his office at the University of Chicago, he could be engaged in the sort of discourse expected of a kindly professor—or he could be advising a President. His opinions are eagerly sought by the news media [Newsweek publishes a column by him], and he in turn is highly skilled in delivering a well-reasoned, witty, and provocative response.

Friedman's office is dank university gothic, its walls visible victims of air pollution. Just as in the office of any social scientist, there is row upon row of hardbound books in institutional, pullman-green bookshelves along the walls. What identifies this as the office of an economist, however, is the vertical information retrieval system in the center of the room: tables piled with paperbound reports of government and other agencies of economic research, and below them cardboard boxes presumably filled with the overflow.

As he hunches forward in his swivel-chair, Hush-puppies toing the tile floor for balance, he exudes a feeling of total eagerness to convey his message. His eyes widen with enthusiasm as he makes his point; they twinkle with mischief when he goes off the path after somebody's sacred cow. When he sees his listener is amused, he flashes a sort of Charlie Brown smile. Even in the dismal science, there's a place for humor.

Tacked to one of Friedman's bookshelves is a bit of bunting embroidered with a grand old message:

BE AMERICAN—BUY AMERICAN

[MADE IN JAPAN]

Q.—What can an economist tell us about pollution control? Why is an economist's point of view especially pertinent?

A.—Because the issue is typically put in wrong terms, as if it's an absolute, as if you

ought to turn off pollution completely. From a rational—or economic—point of view, the proper question to ask is, "What is the right amount of pollution?" Well, "no pollution" is *not* the right amount of pollution, because, for example, one way to have no pollution is to make the automobile—and all internal combustion vehicles—illegal in the United States. If you did that, however, the people would be in an intolerable position. They would find themselves starving to death because then we would not be able to produce or transport food. The cost of eliminating pollution by that means would be greater than the gain you would get from it. People would rather suffer with the present amount of pollution with automobiles than have no automobiles. Perhaps there are less costly ways of eliminating pollution, and I hope there are. But you always have to ask yourself the question "Is the cost that is required to get a certain reduction in pollution greater or less than the gain from reducing the pollution?"

Q.—When you talk of cost and gain, are you dealing with altogether ascertainable costs?

A.—This is the same as all other problems in economics. When we ask whether the cost of building a highway is equal to the gain, we resolve the issue by converting costs and gains into money terms. And essentially the same method applies with pollution. For example, you have a town putting sewage into a river, and another town downriver which must have a treatment plant to convert that polluted water into drinkable water. You can calculate the cost and determine whether the cheaper way to get clean water is first to pollute it and then clean it, or not to pollute it at all. In many cases such calculations to determine the "right" amount of pollution are possible, and indeed they are now made.

Q.—Are we able to compute the costs of air pollution on the damage to our respiratory system or other parts of the body?

A.—People make decisions of that kind all the time. There's no doubt that the danger of getting certain diseases is greater in a city than in the country. But if people moved to the country, they would get a lower income, or they would lose satisfaction in other ways. When you decide to live in Chicago rather than, let us say, in Dubuque, Ia., you are making such a calculation for yourself. Have you considered how much income it would be worth sacrificing in order to lengthen your life as you probably would if you moved to Dubuque?

Q.—People probably wouldn't come to a big city if they knew for certain they would get emphysema. It's just a calculated risk.

A.—But it is a *calculated* risk, exactly. The same is true of pollution; it's a calculated risk. I used to smoke and I gave it up when I saw the evidence of the chance of lung cancer and other diseases; and I decided that the pleasures I got from smoking were not worth the costs I would incur. That's the kind of decision we make all the time. People often talk utter nonsense about how the value placed on life is infinite or immeasurable. On that basis, nobody would ever cross the street. The thing that baffles me about the members of the human race is what a low value they place upon life. You don't have to pay people much extra to get them to be drivers in the Indianapolis 500, yet that surely increases the chance of their loss of life. Even more impressive is that there is no demagog so absurd and stupid that he cannot persuade some people to throw away their lives in pursuit of a silly cause. If you read the newspapers about riots in which people get killed, it just seems incredible that people value their lives at such a low price.

Q.—Do you think the subject of pollution is getting more notice than it deserves?

A.—Yes. This is a nation which has a tendency to go off in fads. There was a more innocent time in our lives when the fad took the form of miniature golf or college panty raids. In recent years, however, our fads have tended to have much more serious consequences. There's enormous overemphasis on pollution. Most of the discussion proceeds as if the right amount of pollution were obviously zero. Also, as if there are some "evil devils" who are deliberately polluting the air. One of the characteristic features of recent fads is that they have been devil fads. It's malevolent, evil people who are more or less deliberately exploiting things—the wicked business men and corporations that are deliberately pouring filth into the air to give us all emphysema. Well, the real source of pollution is mostly the consumer. If you and I want to buy products which have to be produced by plants which pour out smoke, then the pollution comes from us. Its utility plants use coal which produces smoke, then we the people who insist on having electric power are the ones who are the polluters. The corporations are only our agents and our intermediaries. They have no personal desire. If it's profitable for them not to pollute, they will not pollute. If it is profitable for them to pollute, they will pollute. They are only transmitting our instructions.

Q.—Are we, the consumers, going to pay the most of reducing pollution, and if so, will this mean higher prices all around?

A.—You are raising the real issue: How do we set up the rules of our economic game to make it as likely as possible that the person responsible for pollution pays for it? The problem arises because I as a consumer of electric power am able to shift the cost of pollution to other people. This is a question of the difficulty of identifying who is hurt. Let us say a Commonwealth Edison truck runs into somebody else's automobile. That person has been hurt by me as a consumer of electricity indirectly. I will have to pay him, because knowing that he has been hurt by that truck, he has a damage claim. Commonwealth Edison will have to pay for that damage, either directly or through an insurance company. That will be part of the cost of doing business. Commonwealth Edison will of course pass that cost on to me. So in general, wherever damages inflicted on third parties are direct and demonstrable, we already have a mechanism which makes the customer pay. The problem with the smoke Commonwealth Edison makes is that I may be damaged by that smoke, but the amount of the damage is so small and so indirectly related to Commonwealth Edison that it will not be feasible for me to sue Commonwealth Edison for that damage. The problems arise where the damage is spread among people who cannot force the polluter to pay for it. And in those cases it is perfectly appropriate that government step in on behalf of the people—the third parties—and impose the cost on the producers of electricity.

Q.—Do you see the use of the government's power of taxation as an important factor in pollution control?

A.—Yes, but when you speak of government's role, there are two different components. One is the power of taxation, and the other is the fact that government itself is a major source of pollution. In Illinois there is a law which requires certain Illinois institutions to burn Illinois coal. Since most of this coal is soft coal, we specify by law that we prefer pollution. We somehow think that the extra employment in the coal mines more than compensates for the extra pollution to the rest of the people. That's absurd and silly, but it's not an isolated example. I spend part of the year up in Vermont, and the Connecticut river up there, which is a beautiful, magnificent river, has become rather heavily polluted in recent years. The major source of the pollution is the un-

treated garbage dumped by small cities along the river. It's not industrial pollution—that's a minor fraction of it. So the first test for government in these cases is to clean up its own house. Government should eliminate those laws which produce pollution and also enforce responsibility on smaller governmental units to require them to avoid pollution. The second role of government, where taxation comes in, is in those cases where it is very hard to identify the persons hurt by pollution. I think it is appropriate for government to impose taxes on polluters to make it worth their own while to reduce the amount of pollution. This proposal has been made by Senator Proxmire of Wisconsin who suggests an "effluent" tax for an affluent society. The tax would consist of imposing a certain payment on firms for every unit of dirty water they pour into the rivers.

Q.—Regardless of whether the government says "you can't pollute" or "if you do pollute you will be taxed a certain amount," doesn't this in either case mean that consumers will pay higher prices?

A.—It means higher prices to the consumer for the products that pollute. But it doesn't mean higher costs to the consumers. Now, let us say we have a plant that pollutes. The plant produces shirts. We are all paying part of the cost of production in the price we are paying for the shirt. We are also paying part of the cost of production in having our shirt dirtied by the smoke which that plant puts out. If we pay a higher price for the shirt to cover the cost of avoiding pollution, we are reducing the cost we are paying in other forms. The tendency to say that pollution control will make the cost of living higher is wrong. It will make total cost of living lower by making the cost of the things we buy higher but by making the costs imposed on us involuntarily lower.

Q.—Relating to Senator Proxmire's remarks, is there any correlation between the sophistication of an economy and the magnitude of its pollution problem?

A.—I don't believe so. I think people tend to make the connection because the more affluent the economy, the more sensitive we get to the degree of pollution. It is almost certain that pollution in Pittsburgh or Gary was far worse at the turn of the century than it is now. Obviously, as you get a larger population, you get more congestion, and therefore you have more effects of this kind. Still, I'm inclined to take all these statements with a considerable grain of salt.

Q.—There seems to be a growing body of opinion that there is such a thing as a worldwide pollution problem. Doesn't this raise some particular problems in economics? For instance, can a single country impose strict pollution controls without jeopardizing the economic position of some of its own basic industries, such as steel making?

A.—It may not be able to do so. But if we impose pollution controls correctly and do not jeopardize an industry's position, then it is in the nation's interests to jeopardize it.

Perhaps our steel industry ought to decline. Are we hurting ourselves by not growing bananas? If we put a large enough tariff on bananas, we could make it profitable to grow bananas in hot houses in the United States. Would anybody say we are destroying our long-run interests by not growing bananas? The argument is no more sensible for steel. We ought to have free trade. We ought to require the steel industry in this country to bear all the costs for which it is responsible, including the pollution costs. If, having calculated all those costs, it is cheaper to buy steel abroad, fine, let's buy the steel abroad. Maybe the reason it will be cheaper to buy the steel abroad is because there are some people in foreign countries who value the reduction of pollution less than we do. Well fine. Just as we import perfumes from France to cover up the smell, there is no reason why we should

not import clean air from some other countries in this indirect way of buying from them the products that produce the pollution. In general, is it not desirable that those products which give rise to a lot of pollution be produced in those parts of the world which are least populated and where pollution does the least damage? That's just simply part of the international division of labor. I don't see any valid argument along these lines that would justify saying, "We have to endure pollution to protect domestic industry."

Q.—In many cases, aren't we shifting the costs of pollution across international boundaries?

A.—Undoubtedly we are. In those cases, you do have a reason for governmental cooperation to require those nations which are imposing costs on others to pay for them. If we are sending smoke up into Canada, then Canada has a valid claim against us. I think people have been most concerned with tanker oil spills, and there you do have a real case for international cooperation to assure that whatever tanker company is responsible for the spill pays the cost of cleaning it up.

Q.—Do you think it makes sense—economic or otherwise—for one country to get very strict in its pollution control program without world-wide cooperation?

A.—Yes, I think it does. There is an old saying that you must not let the best be the enemy of the good.

ENVIRONMENTAL LAWSUITS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. DINGELL. Mr. Speaker, on May 7 the Committee on Merchant Marine and Fisheries held the first day of hearings on legislation to delineate and articulate the right of the public to engage in environmental lawsuits to protect public resources from pollution, impairment, or destruction.

One of the principal witnesses on this legislation was Prof. Joseph L. Sax, the man who drafted similar legislation which was enacted into law in Michigan last year.

Professor Sax made a number of highly cogent and interesting remarks on this legislation, suggesting a number of amendments to the citizens' action bills presently pending before our committee. My colleague and good friend from Minnesota (Mr. KARTH) and I have introduced a new version of this legislation, incorporating many of the suggestions proposed by Professor Sax and other well-qualified witnesses.

Michigan's experience under this legislation, as documented by Professor Sax, puts to rest the theory that passage of this legislation would "flood the courts with crank bills." Within the next few weeks we hope to hold additional hearings here in Washington to explore any other objections that may be raised and to see if any such objections have merit.

Certainly, 12 suits filed since Michigan enacted this milestone legislation last year are no threat to the judicial system or American industry. Even a better perspective on the Michigan experience is clear when one finds that almost half

the litigation under the Michigan law has been initiated by State and local governments and governmental agencies.

For the benefit of my colleagues, I insert the text of Professor Sax' statement at this point in the RECORD:

TESTIMONY OF JOSEPH L. SAX, PROFESSOR OF LAW, UNIVERSITY OF MICHIGAN, ON H.R. 49 AND H.R. 5076

INTRODUCTION

Despite the impression that a casual reader of news reports may have, the struggle for the right to a decent environment has not yet been won. One indispensable step toward that goal is the enactment of legislation by the Congress guaranteeing to every person the right to come into court and claim the right to a decent environment with the same status and dignity allowed to claims of private property rights.

For this reason, bills such as those on which you are holding hearings today (H.R. 5076, H.R. 49) and the companion Senate bill introduced by Senators Hart and McGovern (S. 1032) are essential elements of every legislative program for the environment. I know that the many thousands of people who worked for and achieved the enactment of similar legislation in Michigan are grateful to the members of your Committee and to others in the Congress who are supporting the enactment of such a law on the federal level.

NEED FOR LEGISLATION

Because you have come to Michigan to hold these hearings, I would like to refer to some Michigan examples of federal problems to suggest the need for an enlarged right of citizens to litigate environmental cases in the courts.

As you know, one matter that has been of considerable concern to citizen groups has been the management of the National Forests by the U.S. Forest Service. Although Congress has expressed its concern about environmental protection of the Forests in the Multiple Use-Sustained Yield Act, and more recently in the Wilderness Act, there has been increasing evidence that the Forest Service is overcommitted to the use of the Forests for commercial timber harvesting and for intensive recreation uses. In a recent case involving the Tongass National Forest in Alaska, for example, it was revealed that of the commercially harvestable timber in the Forest only six-tenths of one percent of the Forest was reserved from commercial lumbering, and 99.6% of that land was available for timber harvesting. I might add, in connection with the frequently enunciated arguments about timber shortages for housing in the United States, that the lumber in that case was to be sold for export to Japan. Just a year ago, a Task Force of the Forest Service itself issued a report criticizing timber practices and expressing concern about the negative impact of certain intensive recreational facilities on the proper balance of recreational opportunities in the National Forests.

The point is that Forest Service practices could plainly benefit from added scrutiny, and some of that scrutiny must come in the form of detailed examination of practices in particular cases. The enunciation of broad policies by the Congress, while essential, is only the beginning of the task. Citizen initiated inquiries in the courtroom are a vital supplement to assure compliance with the broad mandates of the Congress.

What now happens when a citizen comes to court in such circumstances? A recent decision in a Michigan federal court exemplifies the problem. In a case entitled *Gandt v. Hardin*, in the Federal District Court for the Western District of Michigan, citizen plaintiffs challenged a Forest Service recreation management plan for the Sylvania Tract of the Ottawa National Forest.

Whether the plaintiffs should have won the case I do not know. The opinion indicates that the case was a weak one. The importance of the decision as a legal matter, however, lies in the narrowness with which the judge viewed his function under the existing federal law.

For the plaintiffs to have won, he said: "It must appear that the action of the agency was in effect malicious and illegal. . . . The burden of proof in connection with an action such as this is completely upon the plaintiffs. They can only prevail if they can establish by clear and convincing proof that the action of the defendants is arbitrary and capricious. . . ."

The judge went on to note that the Forest Service had "sought the advice and counsel of many people" and he concluded that the plaintiffs had not proven a "failure on the part of the defendants to consider all of the factors."

Of course it will be a rare case indeed where one is able to prove that a federal agency's action has been "malicious" or "capricious"; and it hardly bodes well for environmental quality if that is what one must prove to challenge successfully a governmental program.

Notably, this is not the test for other areas of legal rights. Imagine the situation one would be in if he had to prove that his contract rights were breached maliciously in order to prevail. Or if a person could not recover compensation of a governmental taking of his property, or for injury to his person in an accident, unless he could demonstrate that the defendant's action was capricious.

Nor would it satisfy one who was seeking to assert his rights in a commercial transaction, or a property settlement, if the other party simply demonstrated that he had "considered" the claim of the plaintiff and had consulted many people—but was unwilling to meet the plaintiff on the merits of his claim.

It is in this respect that environmental rights must still be viewed, under federal law, as second class rights, inferior even to the most rudimentary rights granted by the law of contracts, property or commercial dealings. And it is to redress this injustice that legislation such as that now before you should be enacted.

To amplify the point I have been making, let me turn to another Michigan example where the merits of the controversy are much less in doubt—the case of hard pesticides.

In the Autumn of 1967, the Environmental Defense Fund (EDF) initiated cases in both State and Federal courts in Michigan to enjoin certain uses of DDT and dieldrin. These were pioneering courtroom efforts, taken at a time when public consciousness was still at a low level about the hazards of pesticides. The legal basis for such suits was shaky. In the State Court EDF's suit was dismissed. And while a compromise was reached with the defendants in the federal court case, the judge intimated quite clearly that if he had been compelled to rule on the legal questions before him, he would have felt compelled to dismiss that case too.

While these suits were in some practical senses successful, having increased public consciousness about the pesticide problem, and leading to the withdrawal of a recommendation by the Extension Service of Michigan State University that DDT be used for the control of Dutch elm disease, the difficulty in pursuing the pesticide issue in the federal courts has delayed resolution of this highly important issue. If a law like that in the bills before you had been on the books, progress in controlling unwarranted pesticide use could have been considerably expedited.

As you know, the federal government still refuses to suspend the use of DDT, and the matter is now before the United States Court

of Appeals in the District of Columbia. Although that court has been fairly generous in reading its mandate under the existing law, it still is confined to protecting the public against only the narrow test of administrative "arbitrariness."

The consequence of this is an undue emphasis on court supervision of agency procedures (that is, for example, to assure that the agency has articulated its standards, held required hearings, given reasons for its decisions, etc.). Concomitantly there has been a reluctance on the part of the court to scrutinize the evidence of the merits of the environmental issues for the purpose of assuring that agency decisions are environmentally supportable.

As a result, decisions on such important issues as DDT are unnecessarily delayed, with repeated remands by the courts to administrative agencies to improve their procedures, and repeated appeals back to the courts to obtain some decisive resolution of the controversy. The DDT case is now before the court for the third time, having twice been remanded to the agency for additional proceedings.

Such dalliance with important issues does not serve the public interest. What is needed is a plain declaration by the Congress recognizing the right of every member of the public to a decent environment, and granting authority for that right to be asserted in the courtroom on a plane with the right of privacy, the right to be free of unlawful business practices that unreasonably restrain trade, and other such conventional legal rights.

THE ADMINISTRATION'S PROPOSALS

Let me now turn briefly to a discussion of the provisions for citizen initiated lawsuits that appear in some Administration sponsored legislation, such as S. 1014, the water pollution bill.¹ It is necessary to speak of this provision (and the similar, though less narrow, provision in § 304 of the Clean Air Amendments of 1970) because you will undoubtedly be told that such sections of enacted and pending legislation make unnecessary the enactment of bills such as those which are now before you.

This is *not* the case at all; those provisions are in no sense an adequate substitute for bills like those before your Committee. They are, frankly, high in rhetoric and low in substance. They are mere shadows of substantial citizen suit legislation. The failures of those provisions are as follows:

1. They prohibit a citizen from challenging in court any administrative decision that is "discretionary with the Administrator."

It is precisely in the area of administrative discretion, however, that the need for citizen scrutiny and intervention is the greatest. Witness the discretion of the Department of the Interior exercised at Santa Barbara on oil drilling; the discretion exercised by the same Department on the Alaska oil pipeline; the judgment of the Corps of Engineers in pressing forward with the Cross Florida Barge Canal; and that exercised by the Department of Transportation in any one of a dozen dubious highway projects, to say nothing of the SST.

It is not at all clear that the proposed citizen suit provision in the water pollution bill adds anything at all to the right of judicial review available right now under federal court interpretations of the Administrative Procedure Act (APA). Indeed, because the APA even now allows one to challenge an "abuse" of discretion, the Administration proposals may actually reduce the rights citizens already have.

¹ I limit my comments on this important question, for the issue was discussed at length on S. 1032 before the Subcommittee on Environment of the Senate Commerce Committee on April 15, 1971.

2. Moreover, the bill appears to leave with administrative discretion the most important and troublesome issues that arise in environmental regulation—the very ones that are likely to need the greatest scrutiny by citizens if regulatory officials are not to be left wholly to their own determination of the requirements of the public interest.

For example, S. 1014 (the Administration's water pollution bill) leaves it to the Administrator to decide whether water quality treatment can be reduced because available control measures are not "practicable."

Similarly the Administrator is left to decide whether to extend the time available for compliance by polluters on the basis of a judgment as to the "practicability" of compliance.

If these determinations are viewed as within the Administrator's discretion, and thus beyond citizen challenge, the "right" of citizens to bring the Administrator to court is deprived of its central meaning and purpose. What is called a right of citizens to sue is reduced to a shadow. For everyone who is familiar with pollution control knows that the heart of the regulatory process is negotiation with polluters over the "practicability" of compliance. If that process is beyond challenge, the right to sue loses much of its essential meaning.

3. Ironically, the Administration water pollution bill is far more generous with polluters. For it now provides—as I understand it—that when a court is asked to enforce one of the Administrator's orders, the court may take into account the impracticability of compliance if that question is raised by the polluter.

Thus, while an environmentally concerned citizen could not go to court to challenge the Administrator for being too lenient in determining practicability, a polluter may challenge the Administrator in court for being too tough.

If this is what the bill means—and that is how I read it—it is an outrage against the public interest.

Finally, the Administration water pollution bill is faulty in that it forbids a citizen from suing at all if the Administrator is "diligently enforcing" the law. Such a provision is simply an invitation to lawyers to tie up citizen initiated cases for endless periods of time arguing about whether the Administrator is, or is not, being "diligent."

Such provisions are unnecessary; they simply delay getting to the real issues in the case. They are an imposition on the court's energies. In the time that will be spent arguing over the meaning of diligence, three such cases could be tried on their environmental merits.

POLICY OF THE U.S. DEPARTMENT OF JUSTICE

Another point that needs to be emphasized is that while the Administration now enunciates the rhetoric of support for citizen initiated environmental lawsuits, federal attorneys still—even in the Spring of 1971—seek to have suits brought by environmental organizations thrown out of court on the theory that such organizations have no standing to protect the public interest. This was the position of the federal government in the case of *West Virginia Highlands Conservancy v. Island Creek Coal Company and the U.S. Forest Service*, decided only a month ago by the U.S. Court of Appeals for the Fourth Circuit. It was their position in *Sierra Club v. The Department of Agriculture*, decided on March 25th in the District Court of Alaska. In *Environmental Defense Fund v. Corps of Engineers*, decided on February 19th in the District Court of Arkansas, the government not only argued that the plaintiffs had no standing, but even interposed the discredited defense of sovereign immunity. And they are fighting citizen standing still in the *Mineral King* case before the United States Supreme Court.

Moreover, in almost all the cases in which these defenses have been asserted, the government has lost; so there is certainly no legal compulsion that it continue to be interposed. Yet the federal government's lawyers pull every legal technicality out of their bag to avoid meeting citizens on the merits of environmental controversies.

PROGRESS UNDER THE MICHIGAN ACT

I know one matter in which you are interested is the progress of cases under the new Michigan Environmental Protection Act, which became effective on October 1, 1970. I have appended to my prepared statement a copy of testimony I gave recently in Texas on a bill modeled after our Michigan bill. It cites the various cases which have been filed, and describes briefly their status.

I will be very glad to try to answer any particular questions you have about progress under the Michigan bill. In brief, however, let me note these few points. First, the Michigan courts have not been flooded with cases, and they have certainly not been flooded with crank cases. Indeed, about a third of the cases filed in Michigan were initiated by public environmental agencies—indicating that regulatory agencies can and should view the bill as a tool to add to their arsenal of anti-pollution weapons, rather than as a threat to them.

Second, although the cases have not gone to completion, my observation is that the courts are able to cope with the matters that have been brought before them. This is to be expected, since our bill is designed to add a common law, equity court approach to environmental regulation, and courts are fully experienced in the evolutionary approach of the common law and in the fashioning of equitable remedies.

Third, and perhaps most important, while the Michigan law is still in its developmental stages, it is already notable and gratifying that ordinary citizens now feel they have a remedy available to them to bring judicial and public attention to bear on environmental matters about which they feel very strongly—strongly enough to go to court. In this respect, it should never be forgotten that there is a central human element in these environmental controversies. Whether they ultimately prevail or not, citizens want, and need, an opportunity to have their day in court; rather than the back-of-the-hand, or public relations, approach they have all too often received at the hands of bureaucrats. One need only recall as a poignant example the history of the Santa Barbara oil fiasco that I cite in my book, *Defending the Environment*, where the Interior Department advised—at the time oil leases were being considered—against "stirring up the natives." It was this event, you will recall, that Stewart Udall later described as "a conservation Bay of Pigs."

ANALYSIS OF H.R. 5076

I now turn to some specific comments on the two bills you have before you, H.R. 49 and H.R. 5076.

H.R. 5076 most closely resembles the law that was enacted here in Michigan last year, and the Senate bill (S. 1032), and I shall comment first on it. My comments follow the order of the bill and are not set out in order of importance.

1. Page 2, line 2.

It is unwise to title the bill "Class Actions." The text itself indicates that the bill is not limited to class actions. In section 302(a), p. 3, lines 9-10, it is provided that one may sue "in his own behalf" as well as "in behalf of a class of persons similarly situated." The latter category describes a class action, but the former does not.

This appears inconsistent, and it should be made clear that suits do not have to be brought as class actions. There will certainly be environmental cases which legally need

not be brought as actions on behalf of a large class, and such suits should be permitted under the bill.

Moreover, a class representative bears a heavy burden of representation and cost which should not automatically be imposed on a plaintiff or plaintiffs who have a controversy with the defendant on their own behalf.

The existing rules of civil procedure make it possible to join other parties who ought to be brought into such a suit, and both those rules and this bill provides for intervention.

The bill should be left flexible enough to accommodate both class action cases and those cases which need not, and should not, be brought as class actions.

2. Page 2, lines 11-16.

The phrase "harmful effects" seems to identify only the very limited kind of personal or property interests which have been the subject of traditional nuisance law. This phrase is too restrictive in its connotation.

Moreover, by describing protection for "persons and various groups of persons" the bill seems to require personal and individual harm as its sole subject. It is important to recognize that a bill of this kind is meant to implement, to a substantial extent, the "private attorney general" concept, whereby individuals and groups are allowed to bring suit to protect important public rights in which their interest is that of members of the public, rather than a purely personal interest.

So long as such individuals or groups have a genuine interest in an environmental issue, such as the protection of the National Parks, plaintiff should not have to demonstrate personal injury any more than the Attorney General does when he brings a suit to protect a public resource.

This has been a matter of some concern in recent litigation like the *Mineral King* case where organizations such as the Sierra Club have been denied standing; the bill should not follow this narrow view, but should adopt the more expansive "private attorney general" position of such courts as the U.S. Court of Appeals in the Second and District of Columbia Circuits.

For this reason, I would suggest that on p. 2, following the word "protect" in line 10, the words "persons and various groups of persons" be deleted and that there be substituted the words "the air, water, land, and public trust of the United States."

As to "harmful effects", I would suggest that language be added to make clear that the bill also protects against uncertainties which pose unwarranted risk of harmful effects of pollution and environmental degradation.

For these reasons, may I suggest the following substitute for the language of section 301(b), at p. 2, lines 9-16:

"(b) The Congress further finds and declares (1) that existing provisions of Federal law are insufficient to protect the air, water, land and public trust of the United States from the harmful effects, and the unwarranted risk of harmful effects, of pollution and environmental degradation and (2) that civil actions initiated by individual persons, groups or classes of persons can be an effective and useful means for protection against these risks and harmful effects."

3. Page 2, lines 17-25.

I do not think it wise to base the need for this statute upon the inadequacy of State remedies. While it is true that most states do not now have adequate remedies to deal with the problems with which this bill is concerned, even those States which have adopted similar legislation have a need for a federal remedy of this kind. The reasons are several.

Even where there is a broad state law, it may not be able to reach federal defendants or federal projects. Second, even where a state

court remedy might be able to reach part of the problem, many environmental problems cross state lines. In such circumstances, it might be desirable to have a means for consolidating controversies from several states in a single federal court. This can best be done within a single judicial system, such as that of the federal courts. We have some experience with this in the context of complex and multi-state cases, as in the antitrust area, and suggestions have been made by some federal judges that a similar technique would be useful for environmental controversies.

In addition, there is no reason to take an all-or-nothing position. It is useful to have a variety of forums available to deal with serious legal problems. For example, conduct that violates the federal Refuse Act might also constitute a nuisance under state law. Conduct that is a common law tort under state law might also violate the federal Civil Rights law. I think it is clear that we benefit by making both federal and state remedies available in such situations. And, of course, the judiciary has well developed administrative techniques available for assuring that cases are not duplicatively litigated.

Beyond this, for reasons stated above as to class actions, I would not advise basing this bill merely on the presence or absence of remedies for many people each having a small claim.

Finally, the phrase "adversely affected" in line 25 of page 2 is troublesome. This is a phrase which has become a legal term of art from its widespread traditional use. Though its interpretation in the federal judicial system has recently undergone much liberalization, it has a history of rather restrictive use on the question of legal standing to sue. As indicated above, it would be most undesirable for a plaintiff under this bill to have to show that he is specially adversely affected by the challenged conduct, for one important purpose of the bill is to allow plaintiffs to act as private Attorneys General raising issues of importance to the public as a whole.

I would recommend the deletion of section 301(c) in its entirety.

4. Page 3, line 22.

Change the phrase "in appropriate cases" to "in any such action". Courts already spend too much time litigating such technical questions as what is an "appropriate" case. The bill does not identify what "appropriate" means and time should not be wasted trying to plumb the meaning of this word. I see no harm in requiring affidavits in every case; or indeed requiring them in none of the cases. But whatever the rule, it should be uniform for all cases, so that courts can spend their precious time concerning themselves with resolution of the questions that truly divide the parties.

5. Page 4, lines 14, 18 and 19.

There seems to be a typographical error here. The bill would be clarified by inserting the number "(2)" between the words "and" and "that" in line 14; deleting the number "(2)" in line 18; and inserting the number "(3)" between the words "and" and "that" in line 19.

6. Page 5, lines 15-19.

I find all of subsection (f) troublesome. It seems very harsh on the defendant to say that plaintiff is entitled to judgment if the defendant violates any state or federal law or regulation. I have no trouble with a statement that says, in effect, that defendant can be compelled to comply with any federal law. I should think that is obvious enough; and I think any person who is in the protected class ought to be able to enforce the federal law against him.

I do not, however, think this proposed federal statute ought to adopt in advance all state laws and regulations on the environment as conclusive parts of the federal law.

Similarly, I do not think that every regulation adopted by a federal administrator ought to be adopted as conclusive in advance by the Congress.

While one understands the temptation to believe that not many state laws, or state and federal regulations, will be too harsh on polluters, that is, after all, a possibility. The Congress ought not blindly to impose these unknown and in some instances nonexistent standards on all defendants.

I would recommend the following:

"Violation of state law, state regulation, or federal regulations shall be persuasive, but not conclusive, evidence in behalf of the plaintiffs in cases brought under this title."

So long as the bill addresses itself to this general subject, it probably ought to say something about compliance by the defendant with state law, and state and federal regulations. Certainly compliance with such provisions ought not to be a defense. For it should not be the law that a defendant is in a better position in the state that has the weakest environmental regulation. As to federal regulation, compliance also ought not to be a defense, for—as I indicated in my testimony earlier—one major reason for enacting a bill such as this is the recognition that at times federal administrative officials do not regulate environmental quality as vigorously or as fully as they should. The Committee might consider the following:

"(1) Compliance with state laws or regulations, or with federal regulations, shall not be a defense, but [(2) compliance with state laws or regulations, or with federal regulations,] shall be admissible as evidence that there is no feasible and prudent alternative to the activity at issue."

7. Page 6, lines 23-25, Page 7, lines 1-2.

Allowance of attorneys' fees is always a two edged sword. While it is certainly true that many potential plaintiffs in cases such as that contemplated by this bill will operate under severe financial disadvantages, the threat that plaintiffs might have awarded against them substantial attorney fees to compensate the defendants' lawyers could be a severe impediment to the initiation of meritorious suits.

The word "appropriate" does not, in my judgment, adequately deal with this problem. This problem is much like the bond problem dealt with in section 303(e). I would recommend the following:

(1) On p. 7, lines 1-2, delete everything following "fees"; insert then:

"No award of attorney fees shall be made against either party where the court determines that the prospect of an award of attorneys fees would unreasonably hinder either the maintenance or the defense of any action brought under this title, or would tend to prevent a full and fair hearing on the activities complained of."

8. Page 7, lines 6-7.

I would delete entirely lines 6 and 7 on page 7. This is a conventional sort of phrasing which leads to confusion and unnecessary legal disputation. In fact, the bill could very well impinge upon state laws which were environmentally inadequate, and the bill should be understood in that respect. I do not think it is accurate to say that the bill will have no effect on existing laws. It is an additional remedy provided, and one which will have to be interpreted in ways that conform other laws to its statement of congressional purpose. Again, I would note the co-existence of the Refuse Act and other federal water pollution laws as an appropriate analogy.

ANALYSIS OF H.R. 49

Because I have already noted many of the central issues in my analysis of H.R. 5076, I will confine myself to a few general comments about H.R. 49.

In general I consider H.R. 5076 a more desirable bill, for the following reasons:

1. H.R. 49 is limited to air, water and noise problems. I see no reason to eliminate problems involving land use, particularly in a federal bill, considering the enormous quantity of land owned and managed by the federal government. Also, while most hazards are transmitted through either land or water, the bill leaves ambiguous its relationship to such problems as pesticides and radiological hazards.

2. The bill contains no provision like that in section 303(a) of H.R. 5076 putting the burden of establishing alternatives, feasibility and compatibility with the public welfare on the defendant. I view this as a serious omission.

3. The bill does not try to cope with the problem created by the presence of administrative remedies, as does section 305 of H.R. 5076. The provision in section 304 of H.R. 49 is not adequate in this respect.

4. The bill contains no provision about bonds, a provision of considerable importance in any bill that deals with preliminary injunctive relief.

5. Because the bill provides for money damages, it creates a number of questions not raised by H.R. 5076, the Senate bill (S. 1032) or the new Michigan Environmental Protection Act, P.A. 127 of 1970. Since provision for damages and injunctive relief is confined to the same section of H.R. 49, section 302, a question is raised about the differing treatment of completed harms, for which damages are appropriate, and potential hazards, where only injunctive relief is sought. If the bill deals only with completed harms, the coverage of problems for which injunctions may be sought is plainly incomplete. If damages are available only for such conventional harms as are covered by traditional public nuisance cases, the bill does not face up to some of the intensely difficult problems of trying to devise a workable damage remedy for the very pervasive and diffuse harm caused by environmental pollution.

I strongly feel that we must begin to work out the problems of damages to large classes of people in environmental cases, but the problems of managing such litigation is quite complex. I don't think all the difficulties have been taken into account in this bill.

6. The bill does not make clear whether agencies and instrumentalities of the United States may be sued, as does section 302(b) of H.R. 5076. It is clear that suit should be allowed against federal agencies in any bill authorizing privately initiated suits to protect the environment, and H.R. 49 ought to grant that authority in no uncertain terms.

For these reasons, I would urge the Committee to focus its attention on H.R. 5076.

CASES AND OTHER REFERENCES CITED

1. Clean Air Act, P.L. 91-604, December 31, 1970, § 304(a).
2. S. 1014, 92nd Cong., 1st Sess., § 10(k).
3. Sierra Club v. Hardin, No. Civ. A-16-70, U.S. Dist. Court, Alaska, March 25, 1971.
4. West Virginia Highlands Conservancy v. Island Creek Coal Co., No. 15,028, U.S. Court of Appeals, 4th Cir., April 6, 1971.
5. Environmental Defense Fund v. Corps of Engineers, No. LR-70-C-203, U.S. District Court, E.D. Arkansas, February 19, 1971, ERC 1260.
6. Michigan Environmental Protection Act of 1970, P.A. 127 of 1970, M.C.L.A. 691.1201-1207.
7. Texas bill, H.B. 56 (introduced by Rep. Rex Braun of Houston).
8. Sax, Joseph L., *Defending the Environment*, (New York, Alfred A. Knopf, 1971).
9. Mineral King Case: Sierra Club v. Morton, No. 939, U.S. Sup. Court, cert. granted February 3, 1971.
10. Citizens Committee for the Hudson Valley v. Colpe, 425 F.2d 97 (2nd Cir., 1970).
11. Environmental Defense Fund v. Hardin, 428 F.2d 1093 (D.C. Cir. 1970).

12. Management Practices on the Bitterroot National Forest, A Task Force Appraisal, May, 1966-April, 1970 (Forest Service, U.S. Dept. of Agriculture, 1970).

APPENDIX TO TESTIMONY ON H.R. 49 AND
H.R. 5076

(Testimony of Joseph L. Sax, professor of law,
University of Michigan)

Mr. Chairman, members of the State Affairs Committee, I am grateful for the opportunity to appear before you tonight to discuss our effort in Michigan to bring the citizen back into the process of environmental defense, and to return the common sense of the common law to our environmental problems. We feel that we have taken a significant step in this direction by enacting a bill very similar to the Environmental Protection Act, House Bill 56, which is now before you.

I think you will see, as I discuss our experience so far, why we think we are on the right track; and I hope that I can anticipate some of the questions you may have by referring directly, and concretely, to the controversies that have arisen under our law thus far. To the best of my knowledge, nine cases have been filed thus far under the new Michigan law.

Half of these cases have been filed by public agencies as plaintiffs; I begin with these cases because the affirmative use of the act by public regulatory agencies is a significant and gratifying fact. Too many people believed that this new act would be a source of harassment of our regulatory agencies. Instead, happily, it has been seen by some of them as an additional and useful tool.

Three cases were initiated by the Wayne County (Detroit area) Air Pollution Control Commission against the Chrysler Corporation, McLouth Steel Company, and Edward Levy Co. Each had long standing enforcement problems, according to the Commission. Chrysler installed pollution control equipment, but continued to operate when the equipment broke down; McLouth had been uncooperative in agreeing to a schedule for enforcement of control equipment; and the Levy Company created uncontrolled dust problem by open storage of slag.

The Commission decided to initiate these cases because its traditional enforcement machinery, a criminal misdemeanor charge was limited to a fine of \$100, and the possibility—which was not practically available—of a 90 day jail sentence.

According to the Commission's attorney, the new law is "a significant additional tool for us; in effect it presses industries to talk to us under a much greater sense of urgency than had previously been the case under our very limited misdemeanor jurisdiction." He also says, "fears of agencies like ours being swamped by suits as defendants, or with unwarranted complaints by citizens, have not materialized. We are finding industries have a much more serious frame of mind about pollution control since we have had the new act as a tool."

The Commission is now engaged in settlement negotiations with each of the companies. At this point the court has not had to pass on the defendants' replies to the complaints.

Our Michigan Attorney General has also invoked the new Act. He is using it to intervene in a proceeding before the Public Service Commission in which the gas company had asked the Commission to establish priority categories for natural gas uses. Under the company's proposal, of the seven categories of priority, air and water pollution abatement stood next to the bottom. The Attorney General asked the Commission to order the gas company "to amend and reorder its proposed categories and priorities in a manner that protects the air, water and other natural resources and the public trust

therein from pollution, impairment and destruction" or order the company "to demonstrate that there is no feasible and prudent alternative to its proposed categories which are consistent with reasonable requirements of public health, safety and welfare." This proceeding was filed January 11, 1971 and is pending.

The Attorney General was a strong supporter of the new law, and of its underlying concepts. Shortly after the new act became effective, relying upon his traditional broad common law powers, he filed a public trust suit against the National Gypsum Company, which had dammed a public stream running through state land, the effect of which was alleged to be prevention of the migration of fish upstream to the detriment of fishermen. An injunction was sought to protect "the public trust [in] . . . a valuable resource of the State . . ." The suit is being settled by stipulation that the dam be removed.

The special significance of the public trust approach to environmental quality control is that it draws upon the best tradition we have in the law for the recognition of public rights; of the government's duty to implement those rights, as contrasted with a discretion to implement public rights if it feels so inclined; and of its duty to do so with the same vigor and scrupulousness which a conventional trustee of one's money or property brings to his fiduciary obligations.

Thus the public trust doctrine draws on a tradition which can bring meaning and direction to the present demand for the recognition of the public's rights to a decent environment; it properly recognizes that the beneficiary of the trust has a right to take the initiative in seeing that the trustee properly serves his interest. And it puts the right of the public in environmental quality on a plane with the rights of private property, giving them the same high status at law which private rights have long had.

The privately initiated suits have been moving along in an equally heartening fashion. One of the first cases filed challenged a small local government which was piping inadequately treated sewage more than a mile and dumping it into a watercourse just above the plaintiff town and property owners' land. A preliminary injunction was sought—and granted by the judge—against a proposed enlargement of this facility. The judge also granted a preliminary injunction prohibiting additional businesses and dwellings from tapping into the present system and increasing the sewage load until the problem of treatment and disposal was settled. A provision was made for accommodating true hardship cases.

This case is a most instructive one for several reasons. First, it suggests the usefulness of the new law in providing a means for coping with a common and troublesome problem of a kind which has too often been put to the side when the entire power of initiative was left to public administrative agencies.

Indeed, the response of the local circuit judge in this rural county was most heartening to those who had worked for enactment of the new law. The defendants asked the judge to remand the case to the water pollution agency, urging that he was required to do so by traditional law prior to the new statute. But the judge firmly rejected this view, and held in a formal ruling that he was not required to remand where there was a need for the invocation of his equity powers to prevent a pollution situation from worsening. Moreover, he made clear his view that the state pollution agency had only begun to take an interest in the problem as a result of the new law and of the present lawsuit—where private citizens had taken the initiative.

It is also notable that once the judge recognized the fundamental purpose of the

law—to permit the invocation of the common sense of the equity courts—he felt free to enter an order responsive to the genuine problem with which he was faced; the problem of residential and industrial growth outstripping the ability of the community to provide needed public services. He saw the new law as allowing him to take steps designed to bring those two matters into phase.

I say this is heartening because the judge in this case recognized—and responded—to the legislature's effort to bring back to environmental regulation the plain common sense approach of the common law; and to follow the tradition upon which we have built the law of privacy, fraud, assault and each of the great rights upon which the foundations of the common law rests. The problem is recognized in a straightforward manner and those who are adversely affected are authorized to bring their complaint to a court for investigation of the facts and an equitable resolution.

We have not needed hundred-page-long statutory mazes to protect our fundamental rights, whether in privacy or assault and battery or in the law of fraud. Nor have we taken this approach in bill of rights in our constitution, or in the basic antitrust law enacted by the Congress eighty years ago. The Sherman Antitrust law spoke in just such plain language as this bill presents to you, and it too opened the right of action to the private citizen, rather than forcing him to rely upon layer after layer of bureaucratic middlemen.

This bill does not attempt to codify in advance the precise details of every matter which may be brought to a court's attention under this bill any more than the law of privacy or antitrust or fraud does. It does not, because it cannot; and this, of course, is the great beauty and vitality of the common law system: That it provides an openness, flexibility and receptivity to cope with novel problems as they arise. Particularly is this essential in a new and rapidly developing field such as environmental law.

In this regard, let me call to your attention the following notable commentary made by a leading air pollution expert several years ago:

"Air pollution control measures might better be those which are more general rather than more specific. In the move from control based on law against nuisance to statutory regulation of specific pollutants we may have moved to control measures inappropriate to the problem and the scientific evidence. . . . Determining feasibility and technological capability, although difficult, is vastly easier than determining the level in the atmosphere at which a pollutant may be safe or unsafe. . . . Those requirements are met, I believe, by the control of emissions to the greatest extent feasible, employing the maximum technological capability." [Eric Cassell, "The Health Effects of Air Pollution", 33 Law & Contemporary Problems 197, 215 (1968)].

Indeed, Texas courts themselves have begun to recognize this fundamental fact about environmental regulation. During the last year, in the case of *Houston Compressed Steel v. Texas*, the Court of Civil Appeals said:

"The science of air pollution control is new and inexact, and these standards are difficult to devise, but if they are to be effective they must be broad. If they are too precise, they will provide easy escape for those who wish to circumvent the law."

We have seen the significance of this approach on the federal level during the last year when the mercury pollution issue broke into public attention, and when it was clear that prompt and effective action was required. Where did federal officials turn? Not to the elaborate and elephantine "modern" water pollution laws and regulations, but back to the old plain-speaking Refuse Act of

1899, which prohibits pollution in no uncertain terms and provides for a quick judicial remedy.

The need for flexible and workable remedies, in my judgment, is the most important single issue in environmental law today; and H.B. 56 is an essential step in this direction.

Once one recognizes the appropriateness and usefulness of the common sense, common law approach, many cavils can be put in proper perspective. For example, I have often been asked whether the openness of bills such as this doesn't mean that one could sue his neighbor for dropping a cigarette butt on his lawn, or for the noise created by a lawnmower next door. This is no great legal puzzle, but a question answered by common sense, to which the old common law has long given us a satisfactory answer.

The answer is known to every beginning law student. The law cannot formally define away the ultimate minimal case, but in practice the law does not concern itself with trifles. Thus, while in theory the slightest unpermitted touching of another person, such as a tap on the shoulder, may be a violation of the law of battery, the courts have not been troubled by this theoretical problem for hundreds of years because they apply the law with common sense. The ordinary and traditional equity powers of the court would prevent an injunction from issuing in any environmental case of such trivial proportions, and it is clear that environmentally concerned citizens do not use their limited resources to bring cases of such unimportance.

Another interesting private suit of a different kind was also begun in the early days following the law's enactment. A citizen sued the Secretary of State, the State Highway Department and the State to challenge their alleged inertia in developing a standard for coping with automobile air pollution. The purpose of the suit is to require the defendants to begin tackling this problem and to use the court's power to enjoin enlargement of road building activities as prod to get the auto exhaust problem more urgently on the state's agenda. Note that this is not a suit designed to abolish the auto or to end auto traffic until the pollution problem is solved, but to bring judicial power to bear in order to create some pressures to get steps toward alleviation of the problem underway.

Counsel for the plaintiffs, in oral arguments, brought to the court's attention a most interesting analogy which makes clear the central issue in cases such as this. After the defendant's lawyer had complained about the absence of any explicit authorization to develop the standards plaintiffs were seeking, the plaintiff noted that state officials had taken initiative under their broad general powers on many other issues that they deemed important. The question was, shouldn't they be prodded to begin considering air pollution as at least equally important, and to be encouraged out of their lethargy. As the plaintiff noted:

"The State Highway Department imposes a number of other conditions on the use of the highway, inhibits the use of vehicles of more than a prescribed number of axles, vehicles having excessive weight, vehicles incapable of maintaining proper speeds, and so forth . . . It can deny highway use to an unsafe vehicle . . . And we contend similarly . . . this court has the power to order the State Highway Department to impose standards and regulations suppressing or limiting pollution . . . under the Environmental Protection Act.

"The State restrains building permits until sewers are adequate to prevent pollution of the water. The defendant is granting licenses to pollute the same as it would be if it permitted a chemical plant to put poisonous fumes into the air."

Lamentably, the State's lawyers sought to have the case dismissed on the ground that the State could not be sued (a matter clearly

settled against them by the new law) and on the surprising ground that they had no authority to set standards for auto pollution. The court denied both these motions of the defendant, and the motion for injunctive relief is under advisement.

Another privately initiated case, still pending, challenges the approach of the state water pollution agency to the use of streams and lakes for waste water assimilation. The issues in this case have not yet been fully defined, but the court has denied the defendant's motion for summary judgment. I might note that the rather restrictive view of our water pollution agency toward their powers—a view that tends to require a rather heavy burden of showing injury as a prerequisite to control over discharges—has been a controversial issue in the state for some time and is the subject of a long awaited and long delayed Attorney General's opinion. This question may well get a needed airing in the context of this suit.

Still at an early stage is a case seeking to enjoin the sale of detergents containing more than a specified amount of phosphates. The defendant has filed an answer but the case has not yet come on for hearing. This suit, as I understand it, essentially seeks relief similar to that which has been sought by ordinance and statutes in some places, including the city of Detroit where such an ordinance has been enacted but has not yet become effective.

A suit was brought under the act last fall, with a state representative as a plaintiff, to challenge the procedures by which the state was leasing oil and gas lands. The issue got considerable public attention and the state agencies with responsibility in this area have been reconsidering many of their past practices. Apparently in recognition of this, the suit was voluntarily dismissed by the plaintiff at an early stage. This last case reminds me to note that it is already clear that the mere presence of the law, and the possibility of private initiatives, has helped to prod a number of state agencies to be more vigilant.

Of course this phenomenon, which is not easily documented in a precise way, was one of the important hoped-for benefits of the new law. Everyone understood that every important environmental issue could not be litigated by private citizens, and that the potential for a citizen challenge would help to catalyze the agencies, thus providing a leverage effect. I have heard a number of reports that our agencies have indicated to recalcitrant polluters that they had better become more reasonable, or they might have to face their local neighbors in the harsh atmosphere of a courtroom.

In this regard, I call to your attention a letter I have received from an attorney in my own town of Ann Arbor:

"[Citizens] complained about this sewage plant location prior to its construction by the State in 1963-64. After the State sold it to the . . . township, they complained to the Water Resources Commission. Nothing ever came of their complaints until the new statute was passed. Now . . . the State's administrative agencies have stopped dragging their feet. . . . One of the most salutary effects of the new law, I believe, is not in what action it permits, but in what it says. Because of this, existing administrative machinery is getting tough and industry is beginning to take anti-pollution measures without waiting for the process server."

I have tried, in these brief comments, to give you a picture of our experience in Michigan under the new law thus far.

We have not had a flood of litigation; indeed, citizens have been quite cautious in bringing cases to the courts. Our public agencies have not been buried under a mountain of complaints; quite to the contrary, they have found the law a useful tool for their own duties. We have not had crank

plaintiffs or crank lawyers asking for the impossible, but rather a number of quite carefully constructed cases seeking out the reasonable powers of the courts of equity. We have not been brought to disaster by the broadly stated, flexible terminology of the law, but have found both its substance and its procedural structure one which our competent, but ordinary, judges of the circuit courts have been able to cope with. In short, I can say to you without hesitation that we have had a successful and encouraging first half year. And we have begun to take action on some important and long neglected environmental problems.

I hope you will see the merit of trying to adapt our experience to your own situation here in Texas. I thank you very much for your courtesy in extending me the opportunity to make this presentation, and I stand ready to answer whatever questions you may have.

APPENDIX

(Suits Filed Under the Michigan Environmental Protection Act, P.A. 127 of 1970, M.C.L.A. §§ 691.1201-691.1207.)

(1) Wayne County Department of Health v. Edward C. Levy Company, C.A. 166224, Circuit Court, Wayne County, Michigan.

(2) Wayne County Department of Health v. Chrysler Corporation, C.A. 166223, Circuit Court, Wayne County, Michigan.

(3) Wayne County Department of Health v. McLouth Steel Corporation, C.A. 166222, Circuit Court, Wayne County, Michigan.

(4) In the matter of Michigan Consolidated Gas Company, Docket No. U-3802, Public Service Commission of Michigan (intervention of Attorney General).

(5) Lakeland Property Owners Association and Township of Hamburg v. Township of Northfield, C.A. 1453, Circuit Court, Livingston County, Michigan.

(6) Roberts v. State of Michigan, Secretary of State and Director of State Department of Highways, C.A. 12428-C, Circuit Court, Ingham County, Michigan.

(7) Marble Chain of Lakes Improvement Association v. Michigan Department of Natural Resources and Michigan Water Resources Commission, File Number 235-70, Circuit Court, Branch County, Michigan.

(8) Davis v. State of Michigan, Department of Natural Resources, No. 482, Circuit Court, Otsego County, Michigan.

(9) Brown v. Lever Bros. Co., C.A. 151228, Circuit Court, Wayne County, Michigan.

Cases filed after testimony was compiled

(10) Intervention in case no. 2, above, by Joseph C. Nosal and 327 other citizens, granted Friday, March 30, 1971.

(11) Leelanau Co. Bd. of Commissioners v. State of Michigan, No. 510, Circuit Court, Leelanau County, Michigan, filed March 1, 1971 (to restrain state from giving state park land to federal government, pending determination of effect of grantor's reverter clause; and to determine whether transfer to federal government would impair state's public trust obligation).

(12) West Michigan Environmental Action Council v. Betz Foundry, Inc., and Michigan Air Pollution Control Commission, No. 11,409, Circuit Court, Kent County, Michigan, filed March 12, 1971 (to require compliance with air pollution regulations and to get Commission to enforce air pollution regulations as to foundry defendant).

POLICE DESERVE OUR SUPPORT
EVERY WEEK

HON. J. HERBERT BURKE
OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES
Thursday, May 13, 1971

Mr. BURKE of Florida. Mr. Speaker, if there is any group of individuals in our

country which should receive the complete and unflinching support of the people, it is our police. During this National Police Week we should all pledge to help these men, who stand between us and anarchy. We should give them the respect and cooperation that they need to do their job, namely protecting you and me, and our families from harm.

Today we live in a period of increasing lawlessness and violence. We live in an era, unfortunately, when the community family is breaking down, and respect for the law is rapidly diminishing. There are some who encourage disrespect for the law, and who show outright contempt for the man who wears the badge.

Our policemen, together with our firemen, carry out the most hazardous public service of all. It is their job, even at the risk of their own lives, to protect our families, our neighbors, our friends, and our places of business. They must be guardians, and watch over the streets and the alleys—they must respond to emergencies of every sort; they are called upon to deliver babies and to do countless tasks that make our cities and towns worthwhile places to live in. They do a job most men do not want, and yet they get little thanks and little monetary reward for doing it.

Every day they put their lives on the line for us. Last year alone 88 men were killed in the line of duty and more than 38,000 more were wounded or assaulted while doing their job. Yet the hippies, hop-heads and the anarchists have the nerve to call these men pigs.

Instead of tolerating the name calling, why do we not proudly admit that the police force is composed of men, human like any other men—men that think and feel and react. They make mistakes, but certainly not enough to merit the distrust and contempt they often receive. The good they have done to keep law and order as was shown in Washington last week amidst demonstrations and mass protests, far outweighs the abuse for some unpleasant incidents that have occurred.

A good policeman has to be an unbelievable mixture of guts, good sense, insight, and finesse. He has to look at the worst side of life without becoming jaded or cynical. He must be sympathetic and yet not be a pushover. And he must constantly expose himself to intense pressure and grave danger.

There are several ways we can support our police. We should pay them better, we should provide them with better training facilities, and give them a lot more respect than we give them today. Otherwise, how can we in good conscience expect them to do their job, or expect them to perform their duty when the going is roughest—in the streets.

I personally want to praise the many fine policemen in my district, the 10th Congressional District of Florida. They have always done, and continue to do an outstanding job for the citizens of my area.

And once again, I want to pay a special tribute to the men of the Washington, D.C. Police Force who calmly and

professionally handled a very difficult and explosive situation during the protests we all witnessed recently in Washington. With their devotion to duty and perceptiveness, they kept Washington an open, working city.

I am sure that my colleagues will concur with me, that the policemen of our country deserve our highest praise, not only now during National Police Week, but every week of the year.

PRESS FREEDOM THREATENED BY IRRESPONSIBLE COVERAGE

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. YOUNG of Florida. Mr. Speaker, when Vice President AGNEW criticizes some of the news media, the network and press barons respond with outraged cries that freedom of the press in America is under attack. This is nonsense—the irresponsible news coverage we witness almost daily is by far the greatest threat to press freedom in this country.

Evidence of what the Vice President is talking about came during the coverage of the recent May Day demonstrations which shook the Nation's Capital; many news accounts indicated the police, not the dissidents, were breaking the law.

The Yippie leader, Jerry Rubin, asserted that the demonstrations were "planned" in North Vietnam. He said this publicly, yet almost universally the news media of this country chose to ignore it.

The Republican National Committee publication, Monday, on May 10, carried the story in detail. For the information of my fellow Congressmen, I am placing the article in the CONGRESSIONAL RECORD, because for many this is the only way they will be able to get the full story:

DEMONSTRATION PLANNED IN NORTH VIETNAM, YIPPIE LEADER SAYS

Convicted riot leader and New Leftist Jerry Rubin has asserted that the recent demonstrations in Washington were "planned" in North Vietnam. "This demonstration in Washington is a conspiracy and it was planned in North Vietnam and I don't think we should be ashamed of that," Yippie leader Jerry Rubin told University of Wisconsin students April 28 at the Parkside Campus in Kenosha. "This is a Viet Cong flag I'm wearing, by the way," he explained. "It's amazing no one knows the flag of the enemy. . . . I support the National Liberation Front" (the Communists). Rubin's statement that the demonstrations were planned by the Communists was carried by television station WISN in Milwaukee. MONDAY has heard the broadcast and confirmed the quotes.

DEMOCRAT SUPPORT

According to the National Peace Action Coalition, the April 24 march was endorsed by 34 Democratic members of the House, and nine Democratic Senators: Mike Gravel, Alaska; Fred Harris, Okla.; Philip Hart, Mich.; Vance Hartke, Ind.; George McGovern, S.D.; Edmund Muskie, Me.; John Tunney, Calif.; Harrison Williams, N.J.; and Harold Hughes, Iowa. The Congressional Quarterly reports the rally was also supported by ex-Sen. Eugene McCarthy and ex-Rep. Allard Lowenstein, both Democrats.

Although it has been virtually ignored by both the electronic and the print media in this country, there has been extensive and approving coverage in the Communist media of the demonstrations. A Monday survey of the Communist media as reported by the Foreign Broadcast Information Service has turned up these comments:

HAILED BY HANOI

Hanoi's largest newspaper, NHAN DAN, editorialized: "The Vietnamese people warmly hail the undaunted and valiant struggle of the American people and regard this (the demonstrations) as a valuable support and encouragement to them, final victory will certainly belong to the peoples of our two countries." The paper noted that demonstrators included "Congressmen and politicians" saying: "It is characterized by the magnitude of its scale and by the strong spirit and broad composition of the participants. People from the upper strata and political circles are participating in bigger numbers and spirit compared with the previous campaigns. Senator Edmund Muskie, a very well-known leader of the Democratic Party stated: 'The war is wrong. The American people know it is wrong, and we want to end it.'"

The clandestine Communist radio broadcasting in Vietnam to South Vietnam hailed the demonstrations as a "priceless encouragement and a harmonious coordination of the 'second front' (in the U.S.) with the struggle in Indochina against the aggressive war of the U.S. administration." The broadcast labeled the protests an "upsurge of common sense and a manifestation of nationalism, bravery, determination, eagerness for peace, and the international spirit of the American people."

STRUGGLE PRAISED

Another radio broadcast an open letter from the Communist South Vietnamese People's Committee for solidarity with the American People to the American people. It praised the demonstrations and recalled previous activities "in the United States in the Fall of 1969 and your seething demonstrations in the Spring of 1970." "May your struggle, friends, be crowned with great success," the letter ended.

In Laos, the Communist Pathet Lao News Agency broadcast an open letter from Prince Souphanouvong to the demonstrators which praised their "courageous struggle" as having made "an active contribution to ours. We take this opportunity to express our deep gratitude to you. In close coordination with the glorious anti-war campaign of the American people, our just struggle for national salvation will surely triumph." (This "just struggle" spoken of by the Prince means a Communist take-over of Laos. A situation which President John F. Kennedy said in 1961 would endanger the security of "all Southeast Asia.")

Communist China's New China News Agency praised the "just struggle" of the demonstrators and Peking's paper, the "People's Daily," carried an article written by "worker-commentators" which declared: "We Chinese workers and the entire Chinese people firmly stand by the American people and fully support their just struggle."

SOVIET SUPPORT

A Radio Moscow broadcast in English to North America discussed the demands of the demonstrators—an immediate halt to American aggression, and removal of U.S. troops from South Vietnam—and declared: "The Soviet Union also supports these demands. . . ."

In addition to foreign broadcasts, the Communists also communicated their support of the anti-war demonstrations directly to the parties involved. In a letter published by the Liberation News Service to those she called "American friends participating in

the demonstrations," NLF's chief negotiator in Paris, Madame Binh, wrote: "I wish great successes to your Spring Offensive and hope that different groups of the U.S. anti-war movement will come to still better coordination in taking more effective actions to demand that the Nixon Administration seriously negotiate a political solution to bring about an early end to the war..."

CONGRATULATIONS MADAM BINH

In an earlier interview with the underground news service, Madame Binh was asked if she looked upon the anti-war movement in the U.S. as a serious factor in the overall situation or does she see it as simply a beautiful gesture? She replied: "We believe that what they have done, and what they are doing, will contribute to our common struggle against the war... we shall always follow closely the anti-war movement in the United States. We congratulate them and thank them."

COMMUNIST MEDIA COVERAGE OF DEMONSTRATIONS GETS LITTLE COVERAGE IN USA

Is the extensive and favorable coverage by the Communist media of the anti-war demonstrations in this country newsworthy? Monday contacted several TV and newspaper editors and put two questions to them: (1) Did you run anything about the Communist coverage of the demonstrations, and (2) If not, why?

"I don't think so," said J. W. Anderson, foreign editor of the Washington Post. "Minor squibs, maybe. We pretty well take for granted that the Communists will cover these demonstrations." Because of the predictability of the Communist reaction, Anderson explained, he didn't feel the coverage was newsworthy. "But certainly the Communist coverage of the demonstrations couldn't be any more predictable than the demonstrations themselves," Monday asked, "yet the Post covers them extensively." "You have an interesting point," Anderson conceded. "Perhaps we ought to go back and take a look at this."

TIMES CARRIES "VERY LITTLE"

N.Y. Times foreign editor James Greenfield said the Times carried "very little" on the subject but did admit it was newsworthy. There are space problems, he explained, which keep news like this from getting in the paper. "We are preparing a piece on this now," he said, "and it should appear in a few days." Greenfield agreed that such demonstrations here in this country give aid and comfort to the enemy.

CBS television news assistant foreign editor Ted Landreth recalled a one paragraph story at the end of a radio broadcast on the subject but said the item came too late to make a Friday TV newscast and was too old for the Saturday night news. Landreth told Monday that he was familiar with the Communist coverage of the demonstrations but "I don't consider them newsworthy. It happens all the time. They're predictable." But how do your viewers know the Communist media coverage of these demonstrations is the same if they've never seen a story about it on your network, Monday asked. Landreth suggested that people interested in foreign news of this type read Atlas magazine.

NBC "ABSOLUTELY NOTHING"

NBC TV news editor Bruce Sloan, who said he spoke only for the TV side of his operation, told Monday there was "absolutely nothing" on film about Communist coverage of the demonstrations. "I don't think it's newsworthy," he explained. "If we did carry something I think it could be killed off in one line." Sloan said he thought it was "irrelevant" whether or not the demonstrations gave aid or comfort to the enemy. In an aside, Sloan commented that what the United States is doing in Vietnam "is the same thing

the Nazis did in Germany." The only difference, he declared, "is numbers."

The foreign editor of the Los Angeles Times, Robert Gibson, told Monday his paper had a 400 word piece on the subject about two weeks ago. The article was about Radio Hanoi's coverage of the anti-war demonstrations. Gibson said there had been no round-up article covering all the Communist media coverage but said the question was "a perfectly valid one."

DETROIT WANTS PEACE NOW

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. CONYERS. Mr. Speaker, I would like to bring to the attention of the House a resolution adopted by the Common Council of the City of Detroit on April 27, 1971. This resolution brings out the fact that last November, the people of Detroit voted by a 63 percent majority for immediate disengagement from Southeast Asia. It notes that the results of the war have been adverse on our economy, and disastrous to our domestic health and international reputation. The resolution calls for legislation to support the wishes of the majority, congressional hearings on charges of war crimes made at the winter soldier investigations in Detroit, and implementation by the Congress and the president of the People's Peace Treaty.

I think it is relevant to consider that this is the democratic opinion of the people of the fifth largest city in the country. Perhaps it is time that the Congress and the President realize that this opinion is common throughout the Nation, and act according to the wishes of the majority, as in a democracy. The resolution follows:

RESOLUTION ADOPTED BY THE COMMON COUNCIL OF THE CITY OF DETROIT, ON APRIL 27, 1971

By Councilman Ravitz:

Whereas, in November 1970, the people of Detroit voted by a 63 percent majority in favor of an immediate ceasefire and troop withdrawal from southeast Asia, and

Whereas continuation of the war in southeast Asia inevitably means more avoidable deaths and heartbreak for the people of the United States and of Asia, and

Whereas, the war in southeast Asia has had a negative effect on our economy and has adversely affected American credibility throughout the world, and

Whereas, with each passing moment of the war in which fewer and fewer people believe, our cities deteriorate for want of money and our people grow more restless, cynical and hopeless, and

Whereas, only an end to the war in southeast Asia will make available the massive sums of public revenue necessary to revitalize our cities and restore our people, and

Whereas, a petition has been filed by the Vietnam Veterans Against the War, Inc.,

Now therefore Be It Resolved, That the Common Council of the City of Detroit urges the members of the Michigan Legislature and the Congress of the United States to prepare and promote legislation in support of the wishes of the majority of their constituents as expressed in passage of Proposition E, and

Be It Further Resolved, That the Common Council urges the Congress of the United States to conduct public hearings into charges of war crimes brought by Vietnam Veterans at the Winter Soldier Investigations held in Detroit, and that full Congressional immunity be granted to testifying veterans, and

Be It Further Resolved, That the Common Council urges the Congress and the President of the United States to use the principles of the so-called People's Peace Treaty (a Joint Treaty of Peace) as a basis for ending the war in southeast Asia immediately, with bilateral concessions and with honor to both sides, and

Be It Finally Resolved, That copies of this resolution be sent to all members of the Michigan Legislature and the Governor, to the entire Detroit Congressional delegation, and to the President of the United States.

THE PEOPLE WANT PEACE

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. RYAN. Mr. Speaker, the People's Peace Treaty offers millions of Americans who want an end to the war a vehicle which they can point to as a valid basis for seriously negotiating a peace in Vietnam.

As one who has endorsed this instrument as a means to focus attention on the urgency of ending the war, I have been concerned about the criticism which has been leveled against those who support it. Obviously, as support grows, this criticism must expand to encompass more and more people. The students of Case Western Reserve University, in Cleveland, have endorsed the treaty in a referendum. So, too, have the students of Northwestern University, in Evanston, Ill. And the students at American University, in Washington, D.C. So, too, had the Detroit Common-City-Council. If this be radicalism, then radicalism has spread. In fact, it is not radicalism—it is the deep-felt desire of the people for peace.

The May 3, 1971, edition of the Christian Science Monitor carried a very enlightening article by Joanne Leedom, entitled "Focus on People's Peace Treaty." I commend it to my colleagues:

[From the Christian Science Monitor, May 3, 1971]

ON "PEOPLE'S PEACE TREATY"

(By Joanne Leedom)

BOSTON.—Out in Dodge City, Kan., where they still have mock shoot-outs on Saturday afternoon and residents walk down Gunsmoke Street on their way to Boot Hill, Phil Corso is pushing a peace treaty.

It is the "People's Peace Treaty for the United States and North and South Vietnam," drawn up by students from all three nations last December. It is the same treaty whose principles the Detroit Common (City) Council endorsed a few days ago and which four U.S. representatives plan to introduce on the floor of Congress for a "sense of the House" vote.

The "People's Peace" is on the move. As the treaty fans out across America, it is fast becoming one of the chief organizational and educational tools for much of the anti-war

movement. But to be felt, supporters say, it must be implemented.

At best, the treaty can spur people to take individual action and put pressure on legislators, they add. At worst, says Mr. Corso, "It can be like writing a letter to Santa Claus to ask for peace."

In Dodge City, where Mr. Corso and 417 other students from St. Mary of the Plains College recently endorsed the treaty in a 10-to-1 vote, implementation is slow. Some students are lobbying at Republican Sen. Robert J. Dole's Dodge City office and are pushing to take the treaty before the Dodge City Council for endorsement.

DRAFT RESISTANCE

In Oregon, however, implementation is picking up speed as student supporters move out statewide to get one million pledges from those 18-25-year-olds who say they will vote, but only for candidates favoring immediate U.S. withdrawal from Vietnam.

In Charlottesville, Va., treaty supporters also are moving to implement its "spirit" by rallying behind the Charlottesville pledge, which has been circulating more than a year. The pledge says that when 100,000 people have signed, all signers will commit themselves to draft resistance.

Briefly, the People's Peace Treaty would commit the U.S. to set a date publicly for complete troop withdrawal, followed by a Vietnamese cease-fire agreement and discussions on release of American prisoners and procedures for guaranteeing the safety of withdrawing troops.

According to the proposed treaty terms, the U.S. would also "end the imposition of the Thieu-Ky regime," whereupon the Vietnamese would agree to a provisional coalition government to organize democratic elections. Results of the elections would be binding on all parties.

The greatest support for the treaty so far has come at the university level, where more than 70 colleges have ratified the document through student referendums or student senate votes. Much of the support has come from state and community colleges, relatively new to the forefront of the antiwar movement. Last week delegates to the White House Conference on Youth also endorsed the treaty.

OPPONENTS SPEAK OUT

The peace treaty also has been presented to one state Legislature—Vermont—and several city councils, including Cambridge, Mass., and Montgomery County, Md. In each

case, the treaty was modified into a more general plea to "bring the boys home," either by the end of the year or "as soon as possible."

Yet, as proponents of the People's Peace Treaty stir, so do its critics. The State Department has denounced the treaty. So has the Republican National Committee. And so have the Young Americans for Freedom (YAF).

The critics voice three main charges: (1) The treaty is a "product of Hanoi," representing only the North Vietnamese and Viet Cong interests; (2) negotiators of the treaty did not represent a broad base of students either from the United States or from South Vietnam; and (3) endorsement of the treaty could undermine the U.S. Government's efforts at the peace table.

Rep. Richard H. Ichord (D) of Missouri, chairman of the House Internal Security Committee, has declared that "the provisions [of the treaty] are in essence the same terms which have been put forward repeatedly over the past few years by the Communist negotiators in Paris."

Authors of the People's Peace Treaty deny the charges, but do admit that many of the treaty's principles are similar to the Communist proposals. But the authors see these similarities as one of the treaty's strengths, helping to popularize and make understandable the North Vietnamese proposals to the average American.

Tracing the genesis of the Peace Treaty, Frank Greer, a national coordinator and author of the treaty, explains that through correspondence, many U.S. and South Vietnamese students began to see that "there needed to be a way that students over there and over here could coordinate ideas of students of both countries who wanted peace."

Last August, the U.S. National Student Association (NSA) congress voted a mandate for the NSA to explore a negotiated peace treaty with North and South Vietnamese students. They also chose a 15-member delegation to go to Vietnam.

The NSA delegates, however, were refused visas by the South Vietnamese Embassy. So, with the exception of one member, Doug Hostetter, who had applied separately, none of the delegates got into Saigon. They did spend time in Hanoi, however, before going to Paris to hammer out the treaty's final draft.

"The first treaty was written by the South Vietnamese students," explains Mr. Hostetter, who speaks fluent Vietnamese. "The second draft came from Hanoi. In Paris, we Americans worked on the final draft."

The final version was then communicated

back to students in Saigon and Hanoi, who approved it.

"Basically, the students' politics [in South Vietnam] are very nationalistic," says Mr. Hostetter, who spent three years doing alternative service with the Mennonites in a small Vietnamese village. "Many are leery of communism, but prefer a coalition with the Communists to Thieu and Ky."

WWDC RECEIVES PRAISE

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 13, 1971

Mr. HOGAN. Mr. Speaker, on April 16th, the District of Columbia government announced that from that date forward all ambulances shall be equipped with radio telephones that tie in directly with the Fire Department switchboard. Making this addition enables the various ambulance services—both public and private—to communicate instantly with the hospital and thus alert the medical personnel there to the particular needs of the patient being brought in.

Interestingly enough, this idea was espoused 2 years ago in a Radio Station WWDC documentary. Ross Simpson, a newsman for the local station, produced an award-winning documentary, "Definition: Emergency," which gave a searching look into the ambulance service in Washington. Mr. Simpson presented many areas where improvement was desperately needed—one of these areas being communication between ambulances and hospitals. He strongly suggested at that time that ambulances be equipped with radio telephones.

Having introduced legislation in the 91st Congress to establish an Ambulance Service Corps, I am pleased to see the District's emergency ambulance service being revised and improved.

Giving credit where it is due, I commend WWDC and Ross Simpson for their foresight. My only regret is that it took 2 years—and how many lives—for Mr. Simpson's suggestion to be implemented.

SENATE—Friday, May 14, 1971

The Senate met at 10 a.m. and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

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

O Lord of our life and God of our salvation, consecrate with a sense of Thy presence the way of our labor in this place. Guide by Thy spirit Thy servants who stand in this Chamber, who speak for the many and whose judgments share in determining the Nation's destiny. Scorning narrow partisanship or sectarian dogma make them followers of the larger vision which encompasses the well-being of all the people. Lead them through tension and out of contention into the clear light of Thy will, to the dawning of the one radiant king-

dom the only law of which is love and the ruler of which is the sovereign God. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 14, 1971.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. BYRD of West Virginia 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 Thursday, May 13, 1971, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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