At the indicated place and time persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. McCLELLAN), the Senator from Nebraska (Mr. HRUSKA), and myself as chairman.

THE RIGHTS OF NEW ENGLAND LOBSTERMEN

Mr. PELL. Mr. President, I have learned through press accounts that a meeting today between United States and Soviet fishermen off Nantucket was described as "reasonably successful" by Donald McKernan of the State Department.

The State Department should be commended for pressing forward with this session and for vigorously informing the Soviets of our position on the question of the rights of fixed gear lobstermen.

It appears the session opened up new and important avenues of communication between our fishermen and the Soviets.

It is my hope that the State Department and the Coast Guard will continue to maintain a most vigilant watch over this situation and be vigorous in protecting the rights of all American fishermen.

The owner of one fleet of American lobster boats claims more than $100,000 damage in recent days from Soviet harrassment. It is imperative that the accuracy of these claims be verified speedily and, if they are accurate, that our Government press the Soviet Government for full compensation to our fishermen for the damages they have suffered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, immediately following recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

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

ORDER FOR UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of the period for the transaction of routine morning business tomorrow the unfinished business be laid before the Senate.

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

THE PENDING QUESTION

Mr. BYRD of West Virginia. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The question before the Senate is the amendment of the Senator from Pennsylvania (Mr. SCHWEIKER), as modified.

Mr. BYRD of West Virginia. I thank the distinguished Presiding Officer.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows: The Senate will convene at 12 o'clock noon. Immediately following recognition of the two leaders under the standing order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, following which the unfinished business will be laid before the Senate. The pending question is the amendment offered by the distinguished Senator from Pennsylvania (Mr. SCHWEIKER), amendment No. 76, as modified.

Mr. STENNIS. The manager of the bill will be ready to vote tomorrow.

ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 noon tomorrow.

The motion was agreed to; and (at 11 o'clock and 29 minutes p.m.), the Senate adjourned until tomorrow, Thursday, May 20, 1971, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate May 19 (legislative day of May 18), 1971:

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

The following-named persons to be members of the National Commission on Libraries and Information Science for the terms indicated, new positions.

For a term expiring July 19, 1971:
Andrew A. Aines, of Virginia.
Catherine D. Scott, of the District of Columbia.

For a term expiring July 19, 1972:
Martin Goland, of Texas.
Louis A. Lerner, of Illinois.
Charles A. Perlik, Jr., of Virginia.

For a term expiring July 19, 1973:
John G. Kemeny, of New Hampshire.
Bessie B. Moore, of Arkansas.
Alfred R. Zipf, of California.

For a term expiring July 19, 1974:
Joseph Becker, of Maryland.
Carlos A. Cuadra, of California.
John E. Velde, Jr., of Illinois.

For a term expiring July 19, 1975:
W. O. Baker, of New Jersey.
Frederick Burkhardt, of New York.
Leslie W. Dunlap, of Iowa.

EXTENSIONS OF REMARKS

THEIR SHIRTS ARE NOT BROWN

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. MIZELL. Mr. Speaker, at this time I would like to include in the RECORD of today an article written by Maj. Gen. Ferd L. Davis, adjustant general of the National Guard in North Carolina, published in the March 12, 1971, edition of the New York Times.

The article deals with the sacrifice, the devotion to duty and the courage displayed by National Guardsmen under the most difficult of circumstances.

At this time of almost routine civil disturbances and in this age of constant protest, the National Guardsman has been placed in a stereotype that is quite unfair and not at all accurate.

General Davis' article is an excellent portrait of the National Guard as it actually functions, as a proud, honorable, effective company of men dedicated to keeping the national peace in times of disorder.

I highly recommend the piece for review by my colleagues.

The article follows:

[From the New York Times, Mar. 12, 1971]

THEIR SHIRTS ARE NOT BROWN

(By Ferd L. Davis)

In America we National Guardmen have a twofold mission. First we provide immediate back-up support for the regular Army and Air Force our secondary but more highly publicized mission is that of providing military support for civilian authorities.

Military support of civil authority includes such duty as search for missing persons, service during hurricanes and other natural disasters, and restoration of order in civil disturbances. Normally our civil disorder duty is state duty, and it has resulted in some elements of our society regarding us as storm troopers.

National Guardmen are neither *Sturmabteilung* nor *Schutzstaffel*; we have no desire to be regarded as either. In North Carolina we have avoided such characterization by having responsible commanders and capable troops carry out plans embodying both firmness and restraint during civil disturbance duty.

These commanders, upon my order as Adjutant General, leave their civilian pursuits and move into the troubled communities with armed troops and a variety of special forces including infrared sniper teams, gas and shotgun squads, and air-support groups.

Using the same rules of engagement as the regular Army, the guardsmen usually complete the task of restoring order with dispatch. For the North Carolina commander, however, restoration of order is but the first step of a threefold mission.

The commander then moves into what I am pleased to call a mission of mercy, because that is exactly what it is. After the breakdown of normal municipal operations and control, there are always people who are cold and hungry, in need of medical attention; we stand to their needs, get them back on their jobs, and get their children back in school. This phase usually requires about twice as long as the mere restoration of order.

The third aspect of the guard mission involves restoration—sometimes even the beginning—of communication between divergent groups in the community. By executive order of Governor Robert W. Scott, the North Carolina National Guard task-force commander is charged with coordination of all state forces in the disorder-ridden community, and we are diligent in using all our

resources including Good Neighbor groups. When people start talking instead of fighting, they may not solve their problems; but at least the opportunity for solution exists.

Aside from the benefit to the community, the guard helps itself by this activity, since it lessens the chance of our having to return again to the same area. The financial loss sustained by a guardsman during civil-disorder duty varies according to rank and civilian occupation, but in most cases it exceeds $100 in pay differential alone.

Obviously morale is helped by the fact that civil disturbance duty in a given municipality is a one-time proposition of short duration, and thousands of tax dollars are saved for other causes.

We work hard to keep the communications media and the public informed. As a practical matter, we have found that when we make all the facts available, we usually do not have to worry about editorial interpretation.

Our method of operation is one that I used when I was a troop commander; when I became Adjutant General, I imposed it on the entire North Carolina National Guard. So far as I know, it has not cost me the friendship of any of my friends in the ghetto, on the campus, or eleswhere; but more important, it has not taken the life of any person and it has not resulted in injury to any of my guardsmen, to whom I owe a special obligation.

I believe this policy is sensible and humane; the Attorney General of North Carolina has approved it as being entirely in accordance with state law; and it is acceptable to the public.

Recently in Wilmington, for instance, where we had a week of civil-disorder duty, we left with the thanks of local authorities and the white press. The Wilmington Journal, the local black newspaper, praised our efforts, reciting that we were "very cooperative and courteous. In 1898, the black press was burned. In 1971 the National Guard helped us."

Surely you will understand my pride of association with the fine young citizens who comprise the North Carolina National Guard. Their performance under stress surely justifies my appraisal of them as neither bumbling nor hardnosed, but efficient and disciplined, entirely worthy of the special trust reposed in them by a strong and thoughtful Governor.

I left my law office for the Adjutant General's office with considerable reluctance, not all induced by financial considerations; and I still miss the practice of law. But in Wilmington I realized all too well that when I returned to my law office, I should also miss participating in a conscientious effort to discharge a painful duty with both responsibility and imagination.

WEST POINT REEXAMINED

HON. JOHN S. MONAGAN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. MONAGAN. Mr. Speaker, one of our institutions which has maintained its high quality of service and performance through all its years is West Point. West Point consistently provides our Army with superior officers and superior men. Since its foundation the academy has continually altered its approaches and curriculum where necessary to adjust to changing times, yet it has maintained a base of well founded and respected traditions. At present, West Point is in the midst of a $170 million program to improve its facilities and enlarge enrollment from 3,700 to 4,700 cadets. Its minority enrollment efforts have increased, and the selection of courses has been greatly broadened to include more elective courses. At the same time, the essential discipline of the academy still remains.

Recently some 30 guidance counselors and alumni from Connecticut and Rhode Island were invited to a 3-day tour of West Point to examine this unique blend of tradition and flexibility. Mr. J. Greg Robertson has written an excellent account of this trip for the Hartford Courant, and I would like to include it at this point in the RECORD.

The article follows:

TRADITIONS REMAIN, BUT MILITARY ACADEMY AT WEST POINT CHANGES WITH THE TIMES

(By J. Greg Robertson)

WEST POINT, N.Y.—Flanking the entrance to the military history museum at the U.S. Military Academy are two large, framed boards covered with more than 250 small brass name plates. These are the names of West Point graduates killed in the Vietnam war.

Reminders of the deadly nature of their chosen profession are always close at hand as the 3,767 clean-cut, smartly-uniformed cadets march briskly to their classes carrying notebooks and slide rules.

"It's a dirty, rotten business," a be-ribboned paratroop colonel on the staff said of the Indochina war. "Whether we should be there or not isn't our decision. But as long as we are there, we need the best, mature men to do the job."

During a three-day tour of West Point last week, admissions officers showed 30 guidance counselor and alumni from Connecticut and Rhode Island how the rugged four-year program of academic, military and physical training is geared to turn out such officers.

The visitors were urged to "ask any questions, regardless of how sensitive you think we might be about them."

FRANK ANSWERS PROMISED

"You'll get straightforward, frank answers," promised Maj. Edward M. Crowley, the Northeast area admissions officer in charge of the tour. "We're not here to whitewash anything.

"At the end of the tour we'd like you to ask yourselves, 'Has there been any positive or negative impact on these young men?' Hopefully, you will feel it has been positive."

West Point is in the midst of a $170 million program to improve the facilities and enlarge the enrollment to about 4,700. This is the result of a national policy decision to increase the proportion of West Point graduates in the Army officer corps from its present level of about 20 percent of all officers.

There are other changes in progress. A black admissions officer is in charge of an active program for recruiting black cadets, who now number about 100. What used to be an inflexible curriculum now has 150 elective courses.

"We have a lot of tradition here at West Point," said Col. Richard J. Tallman, the deputy commandant, "but that doesn't mean that we are obsessed with it."

Tallman, a combat veteran of three wars who is stationed at the academy for a typical three-year tour of duty, explained the 46-month cadet program, beginning with the two-month summer "new cadet barracks" (called "beast barracks" by those involved with it). The new cadets are whipped into military and physical shape by cadres of first classmen before the academic year begins in September.

"They are given more than they can possibly do, intentionally, to give them a chance to learn to function under stress," said Tallman, a former cadet himself.

The overloading, with course work, military training and physical education continues for the next four years and forces cadets to become expert at organizing their time, something many consider their most valuable lesson.

Cadets carry an academic load of more than 20 units a semester, and graduate with more than 150 units in mathematics, science, English, engineering, history, law and social sciences. There are 40 required courses and eight electives in the curriculum.

The electives, which were begun in 1960 are in the fields of applied science and engineering, basic science, humanities, national security and public affairs, and management.

While the cadets and many faculty members are in favor of broadening the number and type of electives available, there has reportedly been friction with the Tactics Department, which is responsible for the military training of the cadets. Some tactical officers have been said to remark caustically, "Decide whether you want a university or a military academy, but don't try to have both."

One recent West Point graduate, Capt. Michael Aiello, a 1967 graduate, Vietnam veteran and operations officer in the Boston recruiting office, feels that with its high standards and "captive audience," West Point has the potential of ranking with any Ivy League university as a liberal arts institution.

The curriculum has liberalized considerably since its founding as an engineering school in 1802.

"We feel that the humanities are quite important in the making of a man and certainly for a soldier in the job he has to do," said an officer in the English department. Continuing emphasis is placed on communication skills, he said, and cadets are expected to be able to research and write convincingly on controversial subjects such as "aspects of being black."

To sample the quality of the instruction, four visitors were slipped into the back of a first class (senior) literature class conducted by a very articulate young army major. The topic of discussion was "Brave New World," Aldous Huxley's novel of a totalitarian future.

The major questioned, suggested, probed, and commented with his 16 students. Based on an intimate knowledge of the novel, he posed provocative abstract questions about the characters, their ethics, and their society.

"What is the nature of man in 'Brave New World'? This is the type of question you have to back and ask," he said.

The 550 faculty members, with six exceptions, are all career Army officers who volunteer for three-year teaching assignments. Most are sent to graduate school and an increasing number have doctorates before they come to the academy. Only the academic department heads have "tenure," all the rest are rotated back to assignments with their various branches around the world.

Two-thirds of the West Point instructors are graduates of the institution, and a minimum of one third is purposely picked from the ranks of ROTC officers and personnel from the other armed services.

The point was made several times during the tour, with obvious pride, that West Point ranks fourth among American higher education institutions in the number of Rhodes scholars selected from its undergraduates.

Although the emphasis is on academic work, 17 per cent of the cadet's time from September to May is spent on physical education and military training.

Each cadet must compete on three varsity

or intramural teams during the year, and pass certain required physical education courses during his four years. The emphasis is on introducing them to sports they will enjoy and play to keep in shape during the rest of their lives.

During the school year, cadets take courses in military subjects, have drills, parades, and guard duty. Every summer, they spend two months in training to familiarize them with weapons and different functions of the Army in various parts of the world.

A steady average of 30 per cent drop out during the four years—5 per cent for academic failure, 10 per cent for honor code or conduct violations and medical reasons, and 15 per cent through resignation. Most of the resignations come through disenchantment with the tough cadet life or the life of a military officer.

PUSHED BY PARENTS

"I wish more of the kids knew what they were getting into before they came here," said one officer, adding that many are pushed by their parents against their better judgment.

If a cadet drops out after beginning his third year, he must spend two years in the Army as an enlisted man. The Army justifies this by pointing out that it costs the government more than $50,000 to put a man through West Point, including paying him one-half the salary of a second lieutenant while he is there.

One of the most rigid elements of the cadet's life is the honor code, which not only forbids lying, cheating or stealing, but requires that a person knowing of such actions must report them.

The judgments sometimes seem harsh—such as the case of a cadet who was dismissed after he voluntarily admitted a previous lie about having shined his shoes. The cadets maintain that all such offenders must be punished to keep the code viable.

"Unique to this profession," explained the chairman of the cadet honor committee, "is that men's lives depend on the character of the officer. We can't tolerate a lack of honor among our fellow officers."

The cadets, while tending to be relatively conservative, are quick to deny that they are in any sense brainwashed.

John Andreini of Manchester, one of the nine Connecticut first classmen who will be commissioned this month, said, "I never felt that I was indoctrinated in any way." Because of the nature of his profession, a cadet or officer can be expected to examine events with regard to the effect on the military, the 21-year-old cadet said.

Another of the 58 Connecticut residents attending the academy is Bill Siwy, a friendly 21-year-old second classman from Glastonbury. "Everybody here says there should be civilian control of the military," he said during a stroll past the ancient cannons overlooking the Hudson River.

AGAINST CIVILIAN SPYING

Siwy, a member of the judo team, said a course he took recently on constitutional law has made him more aware of the importance of individual liberties. Concerning Army spying on civilian activities in this country, he said, "If it is going on, it should be stopped."

Many of the cadets seemed sensitive to the increasing criticism of the military and some have doubts about the fairness of the news media in the controversy.

About the Calley case: Cadets and officers, while they comment on the tremendous stresses of the battlefield, generally appear to feel the My Lai incident can not be condoned and resulted from unprofessional and undisciplined conduct—something they are quietly contemptuous of.

Asked about his general political outlook, a cadet from Iowa told the counselors that his views have become more liberal in the three years he has been at West Point.

"We had some ROTC cadets come through last year," he said. "I thought we were conservative here, but these guys were really conservative."

Another cadet said he is personally opposed to an all-volunteer army because it could be potentially dangerous to democracy.

A major in the Tactics Department said he couldn't confirm the truth of reports that increasingly, recent West Point graduates were leaving the service after their five-year obligation was up.

WOULD FIND EFFECT

"But I do know that if I were the chief of staff I would try to find out what the Calley case, the winding down of the war, the mood of the country and the Koster case were having on the officers."

(Maj. Gen. Samuel Koster, the My Lai area commander when the killings took place, was superintendent of the academy last year when he was charged with dereliction of duty and failure to obey regulations in connection with the case. He resigned shortly thereafter.)

There have been many changes at West Point since retired Col. Harold P. "Tad" Tasker entered the fourth class in 1920 after spending two years at Wesleyan University.

"When I graduated I was green as grass," he confided. "I knew nothing of the outside world. It was 18 months before I got my first leave. The place was a damned monastery," he said, smiling.

The first classmen now have weekend passes, can have cars on post during their last semester and can meet girls at "Snuffys," a local college bar. Hazing of the new cadets has been cut back, for the logical reasons that intimidation is not necessary to produce discipline and officers do not have recourse to such harrassment with Army enlisted men—they must be leaders.

The cadet life is still arduous and the young men take an obvious pride in their own training, good physical condition, quality instruction, high motivation and long tradition.

COUNSELORS VISIT

Using available military transportation, the Admissions Office flies about 1,000 high school guidance counselors to West Point each year. They are put up, two to a room, in the Thayer Hotel on post for three days. The visitors pay from $30 to $50 for the room and five meals and the tips cost the government about $30 a person.

Implicit in the educator tours and in the eagerness and frankness with which questions are answered by cadet and officer alike is the desire for better public understanding of West Point.

Call it "the selling of West Point" if you like, but the men of the military academy feel the place sells itself to visitors.

Commenting on their future mission as career Army officers, Gen. Douglas MacArthur had this to say to the corps of cadets in 1962:

"The soldier, above all other people, prays for peace, for he must suffer and bear the deepest wounds and scars of war. But always in our ears ring the ominous words of Plato, that wisest of all philosophers, 'Only the dead have seen the end of war.'"

Plato has been accurate for the last 24 centuries but there are doubtless many at West Point who hope he will someday be proved wrong. There is even a pop record on the jukebox in the cadet First Class Club which states emphatically that war is "good for nothin'. Absolutely nothin'."

REPRISALS IN VIETNAM

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. SCHMITZ. Mr. Speaker, many individuals who wish the United States to surrender in Southeast Asia have taken to playing down or denying the fact that widespread reprisals will be taken against the people of South Vietnam should the Communists win.

It is not unusual for people to attempt to downplay the more horrid implications of actions which they advocate and in many cases a determined attempt to disbelieve can convince an individual that what will in fact take place will not take place.

A recent Rand paper entitled, "On the Question of Communist Reprisals in Vietnam," written by Anita Lauve Nutt, analyzes some of the arguments and documentation used by those who would like to think that a gross abdication of our responsibility toward the people of Southeast Asia will not result in a massacre of large proportion.

It is important to understand why the Communists liquidate on such a large scale. P. J. Honey, noted historian from England's School of Oriental Studies, presented a concise explanation of Communist strategy and objectives at a seminar held at the Royal United Service Institution in February 1969. This information was taken from an interview between Hoang Quoc Viet, Chief Procurator of Peoples Supreme Procurate—head of secret police—and member of the Central Committee of the North Vietnamese Communist Party, and a South American Communist.

Mr. Honey stated:

A South American Communist revolutionary paid a visit last year to North Vietnam and had a long series of interviews with Hoang Quoc Viet, one of the senior North Vietnamese leaders. Among the questions he asked was this: "You have run a successful revolution in Vietnam: We have tried many times in South America, but we failed on every occasion. Why? What is the basis of your success?"

Viet's answers are summarised in copious notes which I have in my possession, and which are extremely illuminating. He said: "In the first place, in order to conduct a successful revolution, you have got to involve the entire people. It is no use trying to run a revolution with the Communist Party alone. In order to involve the entire people you must devise a revolutionary programme embodying objectives which will appeal to the entire people. This necessitates the division of the populace into classes, the study of the interests of each class, and the building of a programme from those which are common to all classes.

"The resulting programme contains little if any Marxism/Leninism and you may not like this as a revolutionary Communist, but you have to do it if you are to have any hope of success. This will be known as the Minimum Programme.

"During the French domination of Vietnam the construction of a programme was not difficult. Our 'Minimum Programme' called for the ending of French rule and the estab-

lishment of national independence, which appealed to everybody."

The "Minimum Programme" wins mass support and the revolution may then begin, under the clandestine direction and control of the Communist Party but ostensibly a spontaneous national uprising. When the revolution has progressed to a certain stage, then, according to Hoang Quoc Viet, then it is essential for the Communist Party to assume overt control of the movement. It does so by moving from this "Minimum Programme" to the "Maximum Programme" which simply means adding the unmistakably Communist goals to the original "Minimum Programme".

By this time a large proportion of the people have become irrevocably committed to the revolution, but others may be unwilling to fight for Communist goals. To maintain their support, the original objectives of the revolution have to be retained. Some who are opposed to Communism will inevitably abandon the movement, but the damage can be minimised by pointing out that the revolution still tries to accomplish its original objectives and by appealing to them not to help the enemy.

When the military victory is achieved, as against the French at Dien Bien Phu, the united national front is still in existence. Its constituent parts have already been assessed in terms of social class, and the aspirations of each class are already known to the controlling Communist Party. The united national front is then purged of potentially hostile elements by stages. Firstly, the whole front is turned against the most dangerous class, which in North Vietnam was the exploiting landlords. Though they have fought loyally throughout the whole revolution, they are now denigrated and cast in the role of the enemy. The rest of the united front is deployed against them. In North Vietnam this first stage was accomplished through an agrarian reform campaign, and the landlord class was eliminated.

The next class to go are the exploiting capitalists, the owners of big shops and factories. These successive purges are carried out by the national united front until all the classes which might oppose Communist rule have been removed from the population. When that point is reached the purges end and the Communist regime remains in control of a docile people.

I do not think this technique is even today appreciated in the United States, or indeed, elsewhere in the West. Even those who have written at length about the two Vietnam wars remain ignorant of it. Yet this technique is fundamental, and without a knowledge of it this type of war cannot be understood. Had it been studied and then explained earlier, a lot of criticism that has gone on and has been such an obstacle to the United States might have been avoided.

A totalitarian state cannot exist without a docile population. As Bertram Wolfe has pointed out:

The problem of "statecraft" in a despotism is that of preventing the discontent and longing from assuming independent and organized forms.

The North Vietnamese Communists in order to run a tight totalitarian ship simply have to liquidate those elements in the population who are the potential resistance leaders. They already have a good start underway in South Vietnam having assassinated a goodly number of middle level officials. There is no reason whatsoever to believe that if they come to power in the South they will not extend and complete the program already underway.

Seen within the framework of necessary Communist objectives, specifically the elimination of those elements in the population of South Vietnam who would pose a serious threat to the maintenance of a slave state, the following analysis should help reasonable people, not emotionally attached by this time to the North Vietnamese Communist cause, to seriously reconsider the consequences of pending legislation such as that euphemistically known as the Vietnam Disengagement Act.

The million or so South Vietnamese slated to get the Communist ax should the North Vietnamese win can hardly be any more enthusiastic about the prospect of being liquidated in the name of an "Agrarian Revolution" than in the name of a "Political Revolution." Dead is dead.

The article follows:

ON THE QUESTION OF COMMUNIST REPRISALS IN VIETNAM

(By Anita Lauve Nutt,[1] Consultant to the Rand Corporation, Santa Monica, Calif.)

Several recent public discussions on Vietnam have taken exception to President Nixon's prediction that a "bloodbath" of Communist reprisals, similar to the one that occurred in North Vietnam after the 1954 cease-fire, will take place in South Vietnam if U.S. troops are withdrawn precipitately. Referring to ICC (International Control Commission) reports after the Geneva Agreement of 1954, the discussants have drawn inferences therefrom to support their denial that widespread reprisals occurred in North Vietnam after the withdrawal of the French.

I. REPRISALS

Statements: In his article in the May 22 issue of *Life* magazine, "Set a date in Vietnam. Stick to it. Get out," Clark Clifford stated that "The President bases his claim of 'bloodbath' on his charge that when the Communists took over North Vietnam in 1954, they slaughtered thousands upon thousands of North Vietnamese. In fact, the records of the International Control Commission disclose that, in the two years following the armistice of 1954, only 19 complaints were filed covering political reprisals in all of North Vietnam. Later, in 1955 and 1956, a peasant revolt was harshly repressed and the best estimate are [sic] that 10,000 to 15,000 may have died."

Tom Wicker made a more forceful rebuttal in his column in the *New York Times* of May 12, 1970, in which he called the President's prediction of a bloodbath a "historical hobgoblin," denied that there had been wholesale reprisals in North Vietnam after 1954, and accused the President of using an "emotional argument" that "seems to stem from something stronger than evidence. It is as though he *wills* it to be true, even though it isn't. . . ." In support of his own view of history, Wicker referred to several earlier articles by other writers. The first of these, "Vietnam: The Bloodbath Argument," appeared in *The Christian Century* of November 5, 1969. According to the authors, D. Gareth Porter and Len E. Ackland, "when proponents of the bloodbath argument mention massacres in the North, they are referring not to political reprisals against former enemies of the Vietminh, but to the harshly implemented land reform program of 1955–56." Citing figures attributed to the historian Joseph Buttinger, Porter and Ackland estimated that 10,000 to 15,000 persons may have died in North Vietnam during the land reform program. But the comment that Buttinger's "sympathies lay with Diem" seems to indicate that the writers doubt the validity of so high an estimate.

A second authority cited by Wicker is Professor George McT. Kahin. In a column in the *New York Times* of December 6, 1969, entitled, "Topics: History and the Bloodbath Theory in Vietnam," Kahin charged that the President's account of massacres in North Vietnam was "contrary to the historical record," and criticized the President for what he termed an "appalling misunderstanding of what actually happened after the 1954 Geneva armistice." In Kahin's words, "It was in the fall of 1956, more than two years after the Geneva Armistice, that violence occurred on a significant scale in the North. This was unconnected with the anti-French struggle and was not in reprisal against Vietnamese who had supported the French against the Vietminh."

Response: The regime in North Vietnam did indeed harshly repress a peasant revolt in a series of incidents that took place in Ouynh Luu district, Nghe An province, in November 1956. The repression was not in reprisal for the victims' activities during the hostilities, but in response to mass peasant protests against the detention of relatives and confiscation of property allegedly in connection with the land reform program, the denial of the right to move South during the regroupment period, and the severe punishment inflicted on those who had tried to move. North Vietnamese troops arrested and deported thousands of the protestors, and later fired indiscriminately on men, women, and children after villagers had given a sack of petitions to an ICC team visiting the area. According to Bernard Fall's report in *The Two Vietnams,* this Communist operation resulted in the execution or deportation (mostly the latter) of an estimated 6,000 peasants.[2]

The GVN (Government of South Vietnam) protested vigorously to the ICC charging North Vietnam with violating Article 15d (injury to life and property of civilians) and 14d (denial of freedom of movement).[3] The ICC team in Nghe An province received 1684 petitions from local residents. But since the ICC had earlier ruled that 15(d) was inoperative after the 300-day regroupment period, it ignored the large number of complaints under this heading. The 985 remaining petitions charging a denial of freedom of movement were referred to the Communist government in North Vietnam for comment.

About four years later, the ICC reported that the DRV's (Democratic Republic of North Vietnam) comments were "still under consideration," and in its eleventh and final interim Report, submitted in the fall of 1961, the commission noted that it had not "been in a position to consider 985 petitions received from Quynh Luu District."[4]

Communist massacres, however, had been going on for several years in North Vietnam prior to this particular peasant revolt. During the hostilities, the Vietminh had initiated an agrarian reform in areas they controlled. It began in 1953 with issuance of a Population Classification Decree that divided the rural population into categories, to separate "our friends from our enemies."[5] This decree clearly indicated that all "wicked landowners" who had to be eliminated were also "traitors," i.e., French collaborators. The training course for cadres, given in connection with the land reform program, stressed that "feudalism" (landownership) and "imperialism" (colonialism) were inseparable and had to be jointly overthrown.[6]

The wave of terror that ensued took care of both land reform and political opponents. After the cease-fire, it continued briefly in areas recently taken over by the Vietminh, but quickly subsided because the Communist regime wanted to stem the flow of peasant refugees to the South, and avoid charges of reprisals against those who had favored the other side during the hostilities. To ac-

Footnotes at end of article.

complish the latter, the Ho Chi Minh government merely revised some of its land reform regulations, and reclassified the population in such a way as to provide a cover for reprisals while seeming to respect the prohibitions in the Geneva Agreement. The government decree established four categories of landowners: democratic people and patriotic scholars; landowners who participated in the resistance; ordinary landowners; and powerful, dishonest and wicked landowners, for whom special treatment was reserved.[7]

The wave of terror then resumed with added virulence in May 1955, after all French forces had left North Vietnam. The fourth category of landowners became the catch-all for those who had been associated with the French or the National Government during the hostilities.

Among the victims were many village and district chiefs, minor civil servants, and former employees of the French. Many owned no land at all.

Regarding the number of victims during the program of land reform-cum-reprisals, the specialist on Vietnam, Bernard Fall, whose sympathies most definitely did not lie with Diem, said that "the best educated guesses on the subject are that probably close to 50,000 North Vietnamese were executed in connection with the land reform and that at least twice as many were arrested and sent to forced labor camps." [8]

Hoang Van Chi, for years an active Vietminh, wrote that "following an order from the Communist Central Committee in 1955, *the minimum* number to receive the *death sentence was raised from one to five per village.*" Referring to "the staggering size of the death roll," Chi noted that the figure of 100,000 dead did not seem to be an exaggeration, "since, apart from the number of people who were sentenced to death by the Special People's Tribunal and publicly shot, there still were people who died in jails and in concentration camps, and those who committed suicide." In addition, "a far greater number of landlords' families—the majority of these being small children—died from starvation owing to the isolation policy.[9]

An even more authoritative report on the period following the 1954 cease-fire comes from French Professor Gérard Tongas, initially an enthusiastic apologist for the Vietminh, who remained in Hanoi after the Communist takeover, resolved "to collaborate loyally" with the Ho Chi Minh government—which he thought would be Socialist rather than Communist. Although Tongas gradually became disenchanted with the regime, he stayed in North Vietnam until 1959. By his own account, he was the only foreigner to hold a police permit that allowed him to travel when and where he wanted. Enjoying wide contacts of many years' standing, he took extensive notes on what he saw and heard.

With respect to the land reform program, Tongas writes that it was "the pretext for an indescribable slaughter that produced. . . one hundred thousand dead!" The victims died as a result of executions, imprisonment, or what was known as *dau-to*, a form of community ostracism that so completely isolated the families and friends of those condemned in public trials that they died of starvation. "In each village, the authorities—by means of intermediaries—designated arbitrarily those presumed guilty. Their number was set in advance: one per 500 inhabitants had to be found, which meant easily an average of five or ten per village." [10]

These comments indicate the scope of the terror, but Tongas also reveals the nature: "most frequently . . . the choice fell preferably on those who had held a job, no matter how modest, under the French." Although the wealthier landowners, who were unpopular with the villagers, and those who had failed to help the Vietminh were undoubtedly among the victims, Tongas points out that one did not have to be a landowner to be dragged before the People's Courts because, "contrary to the famous law that theoretically regulated the Reform, it was not the rich who were struck down but the subordinates; in flagrant violation of the Geneva Agreements, the Reform was a pretext for reprisals against those who had worked for the French." [11]

The summer of 1956—the period of the Communist "Rectification of Errors"—saw a lull in the campaign of terror, and after the autumn revolt in Nghe An there were fewer and less indiscriminate convictions. Nevertheless, reprisals for activities during the hostilities continued. As late as 1959 the Government of South Vietnam complained to the ICC that the authorities in the North were still perpetrating "inhuman reprisals against the former employees of the National Government." It expressed regret that the ICC had as yet taken no positive action "concerning the innumerable complaints handed in by the Vietnamese Mission [to the ICC] as well as by the victims themselves or their families residing in the South." [12]

II. ICC REPORTS

Statements: In discussing the incidence of reprisals in Vietnam during the first two years after the 1954 armistice, Messrs. Clifford, Wicker, Kahin, Portland, and Ackland used the ICC reports as their principal source of information. Noting that these reports listed many Communist complaints of reprisals in South Vietnam but very few French charges of reprisals in North Vietnam, they deduced therefrom that there had been no Communist bloodbath in the North in retaliation for cooperation with the French or the National Government during the hostilities.

Several of the writers observed that the ICC reports had revealed no Communist efforts to hamper ICC investigations in the North, but had complained of obstructions in the South and of the Diem government's decision to bar investigations of Communist charges of reprisals after 1956. They concluded from these facts, and from the statistics cited in the ICC reports, that if a bloodbath of reprisals had taken place in Vietnam after the 1954 cease-fire, it had occurred "in the South, not in the North."

The willingness of these writers to accept the public reports of the ICC as the historical record is evident in their arguments. *The Christian Century* article specifically claims that "the International Control Commission reports, while not definitive, give us a reasonable account of the situation in North Vietnam after the 1954 Accords."

Response: The above statements and conclusions give rise to several important questions:

Question: Why did the ICC reports list so few complaints of reprisals in North Vietnam if many did, in fact, occur?

Answer: The Government of South Vietnam actually filed a great many charges, but because it took the position that it was not legally bound by the Geneva Agreement that it had not signed, in 1954 it sent its complaints to the French Liaison Mission to the ICC without referring to the Geneva Agreement *per se*, and without specifically asking for an ICC investigation. The charges were simply forwarded to the French Mission with the expectation that it would seek ICC action. It rarely did in 1954 for several reasons:

The ICC refused to consider charges that failed to cite the Geneva Agreement—sole basis for the ICC's authority to investigate—and the French were unwilling to revise the GVN complaints and assume sole responsibility for them.

The GVN charges often lacked the type of substantiating evidence required by the ICC; for example, the ICC usually insisted on first-party complaints.

The French were convinced that the type of evidence required by the ICC could not be obtained under the conditions existing in North Vietnam, and that it would therefore be wiser to concentrate on evacuating from the North as many potential victims of Communist reprisals as possible.[13]

For these reasons, the ICC report for 1954 listed no specific complaints of political reprisals in North Vietnam. It is noteworthy, however, that the report did state that the ICC had received 17,397 petitions during the four-month period covered, and that 11,035 of these dealt with "freedom of movement, democratic freedoms, etc. . . ." [14]

Although the report failed to state how many of the petitions were from each side, probably the GVN's numerous complaints about reprisals in the North were included, since reprisals and denial of "democratic liberties" were synonymous, both relating to wartime opponents, and both being covered by Article 14(c) of the Geneva Agreement. Also, Canadian and Indian members of the ICC privately acknowledged, at the time, that many petitions were hand-delivered to the ICC headquarters at Hanoi, often at night, while others were surreptitiously given to Canadian and Indian members of ICC teams in the North to prevent the Polish members from alerting the North Vietnamese authorities.

Question: If many—or any—of those executed or imprisoned in North Vietnam in connection with the land reform program were, in fact, victims of Communist reprisals for their activities during the hostilities, why did the ICC reports fail to mention this fact?

Answer: By the time the South agreed, early in 1955, to cite the Geneva Agreement in its charges against North Vietnam, and to request ICC investigations, Hanoi had already cleverly revised its legislation to provide the legal camouflage needed to undertake reprisals under the guise of "land reform." The Australian Communist correspondent, Wilfred Burchett, noted that revisions of North Vietnam's Population Decree . . . were partly made necessary by the "no reprisals" clause in the Geneva Agreements, partly based on the experience of the previous twelve months. Past collaboration with the enemy was no longer an offense . . . accusation meetings were abolished and replaced by the People's Tribunals with judgments pronounced by the properly constituted provincial courts.[15]

But for those determined to investigate charges of political reprisals, the legal camouflage might not have been foolproof, for a "differentiation of treatment was made in the case of patriotic landlords, ordinary landlords, criminals, and despots." [16]

Because, however, there were no subsequent ICC citations against the DRV for either reprisals or denial of democratic freedoms during the land reform program, the DRV legislation apparently met the ICC's criteria, and the trials by People's Tribunals were accepted as a part of the civil administration with which the ICC could not interfere. If so, it may well be because the Hanoi regime was familiar with the viewpoint of certain key members of the all-important Indian delegation to the ICC, and drafted its legislation accordingly. This viewpoint is clearly exemplified in the writings of Dr. B.S.N. Murti, the ICC Public Relations Officer and Deputy Secretary General who was stationed in Hanoi, from 1954 to 1957, and was responsible for maintaining liaison between the ICC and the two signatories of the Geneva Agreement.

Pointing out that there was a "wide divergency in the theoretical concepts of freedom between the two parties," and that the member countries of the ICC, representing different types of democratic organizations, "could not have given a common definition of democratic liberties," Dr. Murti notes in his book, *Vietnam Divided*, that since democratic freedoms are not absolute but relative, they "had to be evolved from the current

Footnotes at end of article.

laws, regulations, and practices." Elaborating on this theme, he goes on to say:

Even though there was an implication in Article 14 that there must be a regime of democratic liberties for the whole population in the two zones, it presumed some standard *and that standard was related to the laws, regulations, and practices prevailing in the area . . . there was no implication in the Agreement that the same standard should be maintained both in the North and in the South.* Once the standard was established according to current laws and regulations, that standard should be applicable to all persons and there should be no discrimination against the previous resistance workers and they should not be deprived of what rights were available to others. *Such a standard of democratic liberties in Vietnam should be examined according to the standard prevailing at a given time in the area concerned.* But any legislation which was directly in violation of some provisions of the Geneva Agreement could not be accepted as the prevailing standard [emphasis added].[17]

The DRV made certain that its legislation was not in violation of the Geneva Agreement. Professor Tongas is brutally frank in his appraisal of the results. After citing the protection presumably afforded by Article 14(c), he asks, "What did we see in the DRV?" and then provides the answer:

The most bloody, the most vile reprisals were undertaken, especially against Vietnamese who had worked for the French. These, carried out in a more or less camouflaged manner on numerous occasions, were undertaken in a spectacular manner during the monstrous Agrarian Reform.

Faced with these terrifying violations of the Geneva Agreement, what was the attitude of the ICC? It saw nothing, knew nothing, denounced nothing. Why? Because it was not officially informed with substantiating proof . . . Who then, under such a regime of terror would dare to brave the official wrath? Determined men ready for any sacrifices, death volunteers—in other words, informants left behind, or sent by the other party, who would be able to submit to the ICC in South Vietnam well substantiated complaints, thanks to their valuable information. But there are no such informants in the North, whereas they are legion in the South, *which explains why it would appear from a reading of ICC reports that the authorities in South Vietnam are responsible for infinitely more violations of the Geneva Agreement than are those in the North. The truth is thus grossly falsified to the advantage of Communism.* . . . [Emphasis added][18]

The frustrated Canadian delegation to the ICC was well aware of what was going on. One of its members who was in Hanoi during this period later wrote:

The International Commission, beginning in 1955, was kept informed of these developments by the South Vietnamese authorities through an increasing number of complaints submitted to it [of Communist subversion directed from Hanoi]. However, it took years before the Commission took any action. In the meantime, however, it diligently dealt with complaints from the Hanoi authorities that the South Vietnamese government was violating the rights guaranteed by Article 14(c) of the Cease-Fire Agreement to what Hanoi and the Commission called "former resistance members" . . . It also seems evident that North Vietnam was using the International Commission and complaints concerning Article 14(c) [prohibition against reprisals] to impose restraints on the limited efforts of Saigon to counter the terrorist activities of Hanoi's agents.[19]

Question: Why did the government of South Vietnam, in 1956, bar further investigations of alleged reprisals in the South?

Answer: Succinctly stated, the GVN felt that it was being discriminated against by the ICC. But the reasons for its action are best given in its own words. In November 1956, the Government told the ICC:

Since July 1954, the Vietminh "People's Courts" have condemned to death, or sent to concentration camps for forced labor, thousands and thousands of persons, former civil servants, community leaders, former military personnel, property owners, etc., with the population not daring to raise its voice to denounce so many crimes committed in the name of justice.[20]

Yet, despite Hanoi's admission of guilt during the "Rectification of Errors," the GVN noted that the ICC had stated that it was not competent to investigate the South's charges of reprisals unless there was proof that victims had been punished because of their former ties with the GVN, proof that was "practically impossible to obtain under a regime of oppression." The GVN complained that, as a result, Article 14(c) had been "practically inoperable" in North Vietnam, and therefore seemed to apply only to the South, whereas the alleged victims of reprisals in the South were "Vietminh cadres left behind after the 300-day period, or new agents sent to South Vietnam for the express purpose of subversion."

The GVN expressed regret that the ICC had not seen fit to consider Vietminh subversion in the South as a violation of Article 15d (which provided for noninterference in local government) on the grounds that this Article was no longer operative after the 300-day period.

For these reasons, the GVN stated that "it could no longer lend itself to the Vietminh propaganda game by continuing to follow up complaints that have no other purpose than to cover subversive activities and to discredit the National Government by slanderous charges of reprisals against former members of the resistance." Consequently, "the Government of the Republic of Vietnam, as of this date will no longer take action on complaints based on Article 14(c)." The letter was signed by Colonel Hoang Thuy Nam, Chief of South Vietnam's Liaison Mission to the ICC.

Colonel Nam, who for seven years signed his government's complaints to the ICC charging Hanoi with directing subversion in the South, became a victim of Communist reprisal himself. In September 1961, when the ICC finally decided that it could legally consider the GVN charges of Communist subversion in the South directed from Hanoi, it did so by a majority vote of the Indian and Canadian Delegates—the Polish Delegate contending, as he had for seven years, that subversive activities were "beyond the scope of the Geneva Agreement and consequently beyond the scope of the competence of the Commission."[21]

The ICC's vote was followed by swift Communist reprisal against Colonel Nam who had worked so diligently to obtain the vote. Two weeks later, he was kidnapped, brutally tortured, and murdered by Communist agents.

The GVN filed vigorous complaints with the ICC and provided evidence that the operation against Colonel Nam had been conducted by members of the "Front for the Liberation of the South" led by a Vietminh cadre who had gone North after the 1954 cease-fire, subsequently returned South with the rank of company commander, and had acted under orders from the Communist Provincial Committee at Bien Hoa.[22]

The ICC, however, did not charge the DRV with responsibility for Colonel Nam's murder—and consequently did not cite it for violating the Geneva Agreement—because the Commission contended that it had no proof that the DRV had ordered the assassination. If ordered by the "Front," there could be no question of a violation of the Geneva Agreement, for the Communist organization in South Vietnam (which became the National Liberation Front) was not a party to the Agreement!

During the years that Colonel Nam served as Chief of the GVN Liaison Mission to the ICC, his opposite number was Colonel Ha Van Lau, Chief of the DRV Liason Mission to the ICC. If Nam had not been murdered by the Communists, he would now be Lau's opposite number at the Paris Peace Talks.

Question: Do the ICC reports really give us, as the *Christian Century* article contends, "a reasonable account" of the situation that existed in North Vietnam—or in South Vietnam—after the 1954 cease-fire?

Answer: ICC reports during the two years after the cease-fire reveal:

No violations by the DRV of Article 14(c), despite the bloody land reform with its reprisals and denial of minimum democratic freedoms.

No violations by the DRV of Article 15(d), despite injury to life and property of civilians in the North during both the land reform and the exodus of refugees, and despite interference in civil administration in the South engineered by Vietminh cadres.

No violations by the DRV of Article 17 prohibiting the introduction of additional military equipment, despite the fact that the Communists equipped 13 new divisions between 1954 and 1956,[23] and publicly exhibited, in Hanoi military parades, equipment of a type not present in Vietnam prior to the cease-fire.

No violations by the DRV of Article 19, despite widespread evidence that Hanoi was directing Communist subversive activities in South Vietnam.

In view of the above missions, one can scarcely maintain that ICC reports give us a "reasonable account" of the situation in Vietnam after the 1954 cease-fire. The account is not even a reasonable facsimile, as a number of the Indian and Canadian members of the ICC have privately conceded.

In 1962, when a Member of the British House of Commons used complaints recorded in ICC reports to support his charge that the South Vietnamese and U.S. Governments were responsible for the deteriorating situation in Vietnam, a representative of the British Government—Co-Chairman of the 1954 Geneva Conference on Indochina—responded:

The rebellion in South Vietnam is by no means just a spontaneous, popular uprising against an unpopular Government, as the hon. Gentleman and others of his hon. Friends have tried to suggest. It is, in fact, a carefully engineered Communist take-over bid. Over a long period, there has been a steady infiltration of trained military and political organizers from North Viet-Nam into the South. . . . There is abundant evidence that the rebellion has been fomented, organized, in part supplied and wholly directed from the North. The principal weapons of this movement are terror and intimidation. . . .

The hon. Gentleman also mentioned the number of complaints against the South Viet-Namese contained in the reports of the Commission. We should not be mislead into drawing wrong conclusions because of the number of these complaints from the North against the South. It was only in July, 1961, that the Commission decided that it was competent to deal with complaints about North Viet-Namese subversion. This is the nub of the problem.[24]

Perhaps if we look behind the ICC reports—the result of compromises by the Indian, Canadian, and Polish members to present a united front—we may conclude that a belief in the Communist reprisals that took place in North Vietnam after the 1954 cease-fire is a necessary first step in the prevention of similar Communist reprisals after the next cease-fire.

FOOTNOTES

[1] Any views expressed in this paper are those of the author. They should not be interpreted as reflecting the views of The Rand Corporation or the official opinion or policy of any of its governmental or private research sponsors. Papers are reproduced by The Rand

Corporation as a courtesy to members of its staff.

[2] Bernard Fall, *The Two Vietnams*, Frederick A. Praeger, New York, 1963, p. 157.

[3] Unpublished letter from the Republic of Vietnam to the ICC, dated November 29, 1956.

[4] See the ICC *Tenth Interim Report*, Command Paper 1040 (HMSO, June 1960), para. 26; and *Eleventh Interim Report*, Command Paper 1551 (HMSO, November 1961), para. 30.

[5] Fall, p. 155.

[6] Hoang Van Chi, *From Colonialism to Communism*, Frederick A. Praeger, New York, 1964, pp. 151ff.

[7] DRV Government Decree No. 473TTG, March 1, 1955.

[8] Fall op. cit., p. 156.

[9] Chi, p. 166.

[10] Gérard Tongas, *J'ai vécu dans l'enfer communiste au Nord Viet-Nam*, Nouvelles Editions Debresse, Paris, 1960, p. 222. Tongas attended some of the trials.

[11] *Ibid.* Immediately after the French withdrew from North Vietnam, the DRV conducted a detailed census that required all inhabitants in areas previously under control of the French forces and the National Government to report the positions they had held during the hostilities, and to state whether they had been associated with foreigners, specifically French or American personnel.

[12] "Violations of the Geneva Agreement by the Vietminh Communists," Government of the Republic of Vietnam, Saigon, July 1959. Appendix No. 11, p. 157. The writer received copies of the many complaints that the GVN sent to the French Liaison Mission to the ICC between 1954 and 1956. These were forwarded at the time, to the Department of State, by the U.S. Embassy in Saigon.

[13] Based on comments made to the writer, in 1954, by the Chief of the French Liaison Mission to the ICC.

[14] See the *First Interim Report of the International Commission for Supervision and Control in Vietnam*, Command Paper 9461 (London: HMSO, May 1955), para. 80.

[15] Wilfred Burchett, *North of the 17th parallel*, published by the author, Hanoi, September 1955, p. 169.

[16] Ibid.

[17] Dr. B. S. N. Murti, *Vietnam Divided*, published by the Asia Publishing House, New York, 1964, pp. 61–62.

[18] Tongas, op. cit., p. 448.

[19] William E. Bauer, "The Conflict in the Far East," in *The Communist States and the West* (Adam Bromke and Philip E. Uren, eds.), Frederick A. Praeger, New York, 1967, p. 161.

[20] Unpublished letter from the Republic of Vietnam to the Secretary General of the International Control Commission, Hanoi, November 17, 1956.

[21] See the ICC's *Tenth Interim Report*, op. cit., para. 24, and the Polish dissent in Appendix "A", p. 26; and the *Eleventh Interim Report*, op. cit., para. 32.

[22] Unpublished letter from the Government of the Republic of Vietnam to the ICC, October 24, 1961.

[23] *Documents Relating to the British Involvement in the Indochina Conflict, 1945–1965*, Command Paper 2834 (HMSO, December 1965), No. 67, p. 124.

[24] "Extract from the Proceedings of the House of Commons, 19 February, 1962," in *Documents*, ibid., Document No. 109.

ALF DESERVES IT

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. SHRIVER. Mr. Speaker, last night in Wichita, Kans., the Kansas Region of the National Conference of Christians and Jews presented its annual Brotherhood Award to Alfred M. Landon, one of our Nation's distinguished statesmen and certainly one of the great citizens of Kansas. It was most deserved recognition and honor for the former Governor of Kansas and the 1936 presidential candidate of the Republican Party.

Under leave to extend my remarks in the RECORD, I include an editorial from the Wichita Beacon which discusses Governor Landon's outstanding and courageous stands for tolerance. I join his many friends throughout the Nation in extending sincere congratulations upon this recognition. The editorial follows:

[From the Wichita Beacon, May 14, 1971]

ALF DESERVES IT

It would be difficult to find anyone more deserving of the National Brotherhood Award of the National Conference of Christians and Jews than Alfred Mossman Landon, former governor and 1936 presidential candidate.

The award, for distinguished service in the field of human relations, will be presented Monday at the NCCJ annual Kansas regional dinner here.

Though Landon is a confirmed Republican, he has bolted his party twice in many years of political activity. It is significant that one of them was in 1924 when he left to support William Allen White's anti-Ku Klux Klan campaign for the Kansas governorship.

The other was in 1912 to campaign for Theodore Roosevelt's Bull Moose effort. And, as an old Bull Mooser he is tolerant of the so-called "radicals" of today.

"Some people called me a radical for being in favor of reducing the 12-hour day to 10 hours," he once told an interviewer. Such concern for others is and has been a Landon characteristic.

Landon was Kansas governor from 1933 to 1937 and was the first chief executive in the state to appoint blacks to high state positions. Under his leadership, blacks also were appointed for the first time to high positions on the Republican State Committee.

During World War II, he joined Catholic and Protestant clergymen in nationwide radio protest against Germany Nazi treatment of Jews.

Gov. Landon once described himself as "a lawyer who never had a case, an oilman who never made a million and a presidential candidate who carried only Maine and Vermont."

Nevertheless, he made his mark, and it deserves the recognition the National Conference of Christians and Jews is giving it.

HONORING DR. WILLIAM CULBERTSON

HON. WILLIAM R. ANDERSON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 1971

Mr. ANDERSON of Tennessee. Mr. Speaker, our Nation needs enlightened and devoted leadership in all walks of life and especially in the realm of Christian leadership which provides the basis for human understanding and man's relationship with the Creator.

That the students of the Moody Bible Institute have requested that their president, Dr. William Culbertson, be honored on this day, May 19, 1971, for his long Christian leadership, is in itself a mark of distinction for the man. Students have a keen eye for those deserving of recognition and praise. I join all those who congratulate and honor Dr. Culbertsin today for his immeasurable contribution to society.

"WHAT IS THE NEW AMERICAN COUNTRYSIDE?"

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. ZWACH. Mr. Speaker, countryside America, long neglected by our Federal planners, is at last getting some of the attention it deserves. This, I believe, is because there have been vocal champions of the countryside who have kept their voices raised in its behalf.

One of the most vocal of these champions is G. B. Gunlogson, founder of the Countryside Development Foundation.

In a further effort to bring the needs of the countryside to the attention of all of America, Mr. Gunlogson, with Dr. Howard Bellows, president of the Southwest Minnesota State College, is writing a book: "The New American Countryside."

I insert in the CONGRESSIONAL RECORD, some excerpts of the first chapter of that book.

We all know unemployment is on the increase as we cut back on our defense spending.

Mr. Gunlogson says:

Jobs can be created in the countryside more economically than in the big cities. Nowhere else are there to be found greater future opportunities for industry and new business development. This countryside movement would help to revitalize a flagging national spirit and bring new challenges to the younger generation.

The excerpts follow:

WHAT IS THE NEW AMERICAN COUNTRYSIDE

(By G. B. Gunlogson)

The countryside is the great body of America that lies outside the boundaries of big cities and their suburbs. In many parts of this vast area a new kind of economy and a way of life are emerging. Ever since the country was a wilderness, it has been called rural. It is no longer a wilderness, and it is no longer just "rural." Rather it has become a countryside complex which embraces more than 98 per cent of the United States in area and thousands of towns and small cities. These places are becoming vital centers around which the future development of the countryside revolves.

There are so many different notions about this countryside and its economy that we must first define what it includes and what is new about it. Our economic history has tended to fragment the countryside. The public image still reflects the character and pattern of its development in pioneer days despite vast changes and physical improvements that have taken place since, especially during the last few decades.

In 1780 the population of the entire country was 5.3 million, and this was scattered mostly in eastern areas. Immigrants were pouring in from nearly every part of the world; and for the next century they, along with the earlier newcomers, kept pressing into all corners of the hinterlands. By 1900 the population had grown to 76 million, and

thousands of new settlements and towns had been established across the continent.

The vast and varied resources of this new land yielded richly to the unbounded ingenuity and enterprise of these early settlers who had brought with them a greater range of backgrounds, skills, and cultures than had ever before assembled anywhere else on earth. At the beginning of this century America was still a new country, but the unprecedented enterprise of these people had made it a world power. Among other accomplishments, it had developed the most efficient agriculture in the world; and farm production had turned the country from a borrower to a lender nation.

Despite great mechanical inventiveness and industrial development that was going on, it was the agragrian character that dominated the American profile up to this time. At the turn of the century, 70 per cent of the people lived on farms or in small country places. Industry became centered in the more populated places because it was there that transportation, communications, electric power, and other public facilities were first to develop. Outside these centers, America was literally rural at the time.

Thus, the first census nearly 200 years ago attached the *rural* label to about 99 per cent of the country's area and the people who live there. This designation has tended to perpetuate an image which today is ambiguous and unrealistic.

THE COUNTRYSIDE BECAME FENCED OUT

There were many elements that enabled the cities to become more aggressive and take on a special place in the public mind. They were compact geographical areas, and their interests were more homogenous. The manufacturing industries and other business enterprises that centered there were expansionary and promotional by nature. The mass media also centered there was largely urban oriented.

The country was looked upon as the producer of natural products from the land, forests, and mines. The continued use of the term "rural" established a barrier between the two economies. This has adversely affected a more normal balance in the development of the nation's economy and population distribution. What is ironic is that even our own government continues to designate all non-urban areas and people as rural—a term which often implies backwardness, boorishness, and lack of progress.

Webster's dictionary defines rural as "pertaining to the country as distinguished from the cities or the towns; rustic." Government and dictionary definitions change slowly, but technology has completely changed the face of rural America. It has tied together the towns and surrounding country, and it has brought the amenities of the cities to these newly forming communities. Even in the most backward regions, only minutes now separate the back country from the town.

THE NEW COUNTRYSIDE

It is important that the significance of these basic changes be fully understood. The technological progress in many areas has outdistanced that in the cities. In farming, for example, which is the most important industry in the country, the production per man is about five times what it was three decades ago. Crop yields have doubled and trebled since 1935. Corn yields in 1935 averaged about 25 bushels per acre and 84 bushels in 1969. Yields of 200 bushels have become common. Yields of potatoes have trebled. Total soybean production has multiplied 20 times. Mechanization in terms of horsepower is more than ten times what it was a generation ago. These achievements have contributed more to the basic economy of the nation than all the skyscrapers built during the same period.

A total inventory of the physical improvements in the countryside would stagger the imagination. It includes some 300,000 miles of surfaced highways, 250,000 miles of natural gas transmission lines, 215,000 miles of railways, electric power, and communication facilities everywhere. In land area and natural resources, the countryside includes 98 per cent of the United States. It includes 2,800,000 farms, thousands of parks and recreational areas, lakes, rivers, and mountains. This is the countryside that has superceded rural America. It is a new frontier where we can now build a new future.

INVENTING A NEW FUTURE

Our future has always been invented. We have invented machines and practices that have been changing the course of America for 300 years. They have enabled people to open up every corner of the country and to establish thousands of communities. They have built great cities. They contributed to over-concentration of people and industry. They have contributed to pollution of air and water and deterioration of the human environment.

They have brought painful experiences to millions of people in the country and forced them to migrate to unknown cities seeking chances to make a living. They have brought abandonment and left dying countless country communities.

In the New York-Newark area the population is nearly ten times the total population of North and South Dakota. The area is one per cent. This provides a rough measure, not only of pollution potential, but of what is happening to America. There are many areas in the United States that have become critically congested, where human character and efficiency are deteriorating, where costs and taxes are getting out of control, and where public services are beginning to break down.

If our ingenuity and technology have gone too far in one direction, we have the capabilities to redirect these forces and achieve a greater compatibility between the earth's resources and human welfare. The great body of America still has greater potential for mankind than ever, and it is more available. But first ideas must be adjusted to realities in a changing world.

For too long we have been restricting all priorities to a choice between urban and rural living only. There is much evidence to show that it would be better if more people lived in smaller cities closer to the earth and to a more natural environment. There is no other way to make our natural resources and living space available to the greatest number of people. It would help to relieve the big cities of suffocating population pressures and other problems.

We can bring the advantages of big cities to smaller cities situated in the country, but we can't bring the country into the big cities. The fields and the forests which may be putting three or four tons of oxygen per acre into the air we breathe will never be a part of a big city. Nor can we transport to a central city the open spaces and the green chemistries of living nature. Only by decentralization can some of these goals be achieved. A great deal of experience has already been gained. There are hundreds of communities across the country that offer valuable examples.

The situations vary from place to place, but they provide impressive examples for those who would improve living conditions and further a broad program of national renewal.

(1) First we must come to the recognition that a town must have people and the people must have jobs and opportunities to live there. The day is gone when a community can provide these requisites on a single source of economy, be it farming, forestry, mining, or a one-plant manufacturing business. The "trading post" era is gone. Without diversification in employment opportunities, people leave. The more venturesome and enterprising go first. Stagnation takes place, and the town soon withers away. Some of these towns may seem to stabilize for a while, but at a level so low that they are no longer good communities.

When this stage is reached, rebuilding becomes more difficult. It is like managing any business. If the enterprise is permitted to run down, the customers lose confidence and the people in the business lose their spirit and drive. It takes these same human qualities—vision and enterprise—to build a prosperous community.

(2) Once a town has made a start by providing a new payroll to supplement the basic economy, which in most country towns is farming, it seems to take on a new life. The opportunities for further diversification or growth become better than anywhere else. A larger share of the people is benefited directly than in a big city. Even a small payroll can start a chain reaction resulting in improvements and growth that seem to feed upon themselves.

(2) Some of these opportunities can be created. For example, it has been estimated that at least 2,000 country towns are now in need of better facilities for elderly people. The most ideal facilities consist of retirement homes in conjunction with rest and nursing care. In most cases these are quite easily financed from local contributions together with aid and loans from federal agencies. These projects contribute to the quality of a community in many ways and at the same time create new income for the town. An increasing number of people everywhere are thinking about security in old age. Such facilities along with hospital and health services can be a big factor in the future prosperity of thousands of country communities.

(4) More recreational areas have become one of the most urgent needs of the nation. These, too, we must begin to disperse. The grandeur of some of our great national parks is rapidly deteriorating. Throngs of people occupy every available campsite, motel, and hotel accommodations. Traffic, pollution, vandalism, and social problems multiply with this increasing pressure. Instead of rest and relaxation, there is turmoil and frustration.

In the world we live in today, people need more than ever to pause now and then amidst woods and waters. There are too many children growing up that have never heard the song of birds or seen wild animals in their native habitats or breathed the fresh air of the woodlands. Every community needs parks and playgrounds. But there is something new that should be added. Many more local nature areas should be set aside for education and inspiration to provide enjoyment and to stimulate appreciation of nature. These developments would add greatly to the dimension of American life.

The centers for future developments will be the country towns. To become attractive, a town must become a good community and in the process must take on the amenities essential to quality of life. A good community must have job opportunities and sufficient economic diversification to offer young people some choice and challenge. The town must have sanitary facilities, paved streets, schools, churches, hospital, recreational facilities, and some cultural interests. A high degree of interrelating with the surrounding country enhances quality of life and economic stability. This may be in the form of golf, horseback riding, fishing, picnics, nature trails, pet farms, and many other enterprises. This is *town and country* living.

A clearer definition and more information are needed about the *total* countryside and its vast and varied resources in terms of better living. The majority of the American people would prefer to live in the countryside if they had their choice.

A countryside movement would bring ma-

jor opportunities to people and industry. Jobs can be created in the countryside more economically than in big cities. Nowhere else are there to be found greater future opportunities for industry and new business development. This movement would help to revitalize a flagging national spirit and bring new challenges to the younger generation.

THE 30TH ANNIVERSARY OF GEN. DRAGOLJUB MIHAILOVICH UPRISING

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. DERWINSKI. Mr. Speaker, last Thursday, May 13, was the 30th anniversary of the uprising of Gen. Dragoljub Mihailovich against the German Nazis and the Italian Fascists, who at that time had occupied Yugoslavia. Mihailovich was an unknown colonel of the Royal Yugoslav Army who was determined not to have his country capitulate to its occupiers and who pledged to continue the struggle for freedom.

In proclaiming the struggle for the freedom of Yugoslavia, General Mihailovich stated:

As a student at the Royal Military Academy in Belgrade, I did not learn the existence and meaning of the word capitulation. Therefore, I continue the struggle until the last soldier of the invading enemy forces will be driven out from the territory of our beloved fatherland.

At that exact time, the situation was extremely bleak since Hitler's panzer divisions had conquered Czechoslovakia, Poland, Holland, Belgium, Denmark, Norway, and France, had been permitted to occupy Hungary, Rumania, and Bulgaria, and joined the Fascists in the submission of Albania and Greece.

From the onset, the struggle of Mihailovich and his Chetniks against the occupying forces of Hitler and Mussolini was an obvious David versus Goliath match, but the inspiration of his uprising was felt throughout the oppressed areas of the continent from the moment he proclaimed his resistance at the mountain of Ravna Gora, Mihailovich was described in the free world press as the "Eagle of the Balkans." He was not only an eagle in the hopes of all the fighters for freedom, but also a leader whose faith, character, and deeds became a major reason why the Axis forces were ultimately defeated.

For these reasons it is painful to repeat the tragic story of the Resistance Movement of Ravna Gora or the Royal Yugoslav Army in the Homeland, as the units of General Mihailovich were officially named. Decimated by Nazis and Fascists, deceived by Tito's partisans with whom he tried to coordinate the struggle against the occupiers, abandoned and betrayed by Churchill and Roosevelt, General Mihailovich and his forces remained the most loyal allies of the free world. They saved and returned to safety hundreds and hundreds of American airmen. He and his forces, although fighting against overwhelming odds, fought much longer than any other allied army in World War II. Even after General Mihailovich was captured and executed by the Communists, remnants of his units fought in the mountains of Yugoslavia for many years in the cause of true freedom.

Since the forces and followers of General Mihailovich could not accept the Communist government which was imposed on Yugoslavia after the close of World War II, hundreds of thousands migrated to various parts of the free world. In the United States, and in other non-Communist lands wherever they regrouped, they organized fraternal, civil, veteran, and religious groups united in their determination to maintain the traditions of their homeland and to look forward to the day when true democracy and freedom will exist in Yugoslavia.

In paying homage to the memory of General Mihailovich on the occasion of the 30th anniversary of the commencement of his heroic struggle for freedom, we can objectively discuss the great changes that could have occurred in the history of Europe and the world if General Mihailovich and his Chetniks had been able to fight off their various military opponents and had maintained a non-Communist government in Yugoslavia. It might well be that at least Albania would have retained its freedom, the Soviet occupation of Austria might never have taken place, and free rather than Communist governments may have survived in Bulgaria and Rumania.

May I remind the Members of the House, Mr. Speaker, that General Dragoljub Mihailovich was posthumously awarded the Legion of Merit, Commander in Chief, for the services he and his troops rendered to the American airmen during World War II.

The citation, accompanying an award signed by President Truman on March 29, 1948, read as follows:

General Dragoljub Mihailovich distinguished himself in an outstanding manner as Commander-in-Chief of the Yugoslavian Army Forces and later as Minister of War by organizing and leading important resistance forces against the enemy which occupied Yugoslavia, from December 1941 to December 1944. Through the undaunted efforts of his troops, many United States airmen were rescued and returned safely to friendly control. General Mihailovich and his forces, although lacking adequate supplies, and fighting under extreme hardships, contributed materially to the Allied cause, and were instrumental in obtaining a final Allied Victory.

The award has never been presented because of the practical unavailability of any heir of General Mihailovich to whom, in view of the official attitude of the Yugoslav Government toward General Mihailovich and the sensitive international diplomatic considerations involved, presentation could appropriately be made. The medal and citation therefore are being retained in the Department of State until such time as proper arrangements can be made for their disposal.

Mr. Speaker, I took the time this afternoon to remind the Members of the tragic, yet noble, page in history of General Mihailovich's efforts to serve his country in the cause of freedom.

FORTY-SEVEN YEARS HEAD OF THE FBI: J. EDGAR HOOVER AND HIS CRITICS

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 17, 1971

Mr. BRAY. Mr. Speaker, it may be a bit out of the ordinary to join in the tributes to J. Edgar Hoover today on the occasion of his 47th anniversary as Director of the FBI by citing his critics. However, I find some interesting parallels and analogies to be made which I believe should be brought out at this time.

On one hand, we have Mr. Hoover and the FBI—an organization which, when he assumed directorship, was notorious for scandal, incompetence, corruption, political favoritism and, overall, very probably had the most noxious reputation of any Government agency at that time. Mr. Hoover's 47-year-record has given it just the opposite: clean past the point ever attained by any other arm of the Federal Government. It is worth noting that not even the most severe critics even remotely hint that there still exists in the FBI any of the ills that plagued it when Mr. Hoover became Director.

On the other hand, we have Mr. Hoover's critics, and today I want to pay special attention to his most severe local saddle-sore, the Washington Post. I believe it can be safely said that this newspaper's editorials, when it mounts a crusade, are out and away the most reeking of piety of any in the entire field of American journalism. Unction gushes from every line, every sentence. A reader of the Post is hard put to determine which frightened the mothers of the editorial writers more: firearms or the FBI. The editorial page is consistently paranoid on both subjects. But the Post's policy is also consistently schizophrenic in some other aspects, as I will demonstrate.

I have noticed a rather curious and alarming double standard taken by some segments of the media when it comes to making a point. For instance, some time ago, one magazine devoted an editorial to an unpleasant situation when a U.S. Senator had had hundreds of documents stolen from his office, and turned over to the press after being copied. The magazine said, in words to this effect, that it was not theft because the documents were returned.

Indeed. Try that with your neighbor's car. See if he appreciates the fine philosophical subtlety involved. Better yet, try this on the stolen vehicles division of your police department, the prosecuting attorney and the local judge.

But back to the Washington Post. A good sample of the splenetic frenzy invoked down there when the subject of J. Edgar Hoover and the FBI comes up in this paragraph from their lead editorial of Friday, April 30, 1971:

We submit that the FBI's quality, performance and range of activity are legitimate subjects of political concern and controversy in a self-governing country. We think

the FBI's director ought to be challenged and questioned and called to account just like an ordinary mortal. We believe that an inefficient FBI with a director fighting the battles of a bygone era is a threat to national security and that an overreaching FBI which equates political nonconformity with subversion is a threat to liberty. There could hardly be a more appropriate political issue in a democracy.

Now, this is from the same newspaper whose idea of journalism and ethics is reflected in showing its devotion to individual privacy by printing the text of four letters from Mrs. Jacqueline Kennedy to a friend; letters that had been stolen—and the Post knew it when it printed them.

Now, let us take up a more recent case and one that bears on Mr. Hoover. The District of Columbia Criminal Code dealing with stolen property is simple and easy to read. Indeed, the concept itself is basic in tenets of law and not at all hard to understand.

The 1,000 or so documents stolen from the FBI office in Media, Pa., recently, were stolen property. Some of them were copied and mailed to the Post. A copy of a stolen document is still stolen property. Running it through a Xerox does not change its status in the eyes of the law.

The Attorney General of the United States asked the Post to voluntarily refrain from printing this material. I don't know if he asked for the documents back, or not. They should have gone to the Department of Justice without anyone having to ask for anything, but, remember, we are on the side of the angels here so let us write our own laws and never mind what the District of Columbia Criminal Code says.

So, and to quote the Post, "with due deliberation and with considerate regard for the Attorney General's objections" the substance of the material was printed. Again, from the Post: "We were convinced that it served the public interest to do so."

There is more to this than the insistence, in simple justice, that critics follow the same rules they would invoke on the object of their criticism. The fact, which I cited at the beginning of my remarks, that the FBI has been so incredibly and remarkably clean when it comes to its individual agents and their work is indeed the sharpest of contrasts to the equally incredibly and remarkably shabby and underhanded and illegal methods which the FBI's detractors will employ.

This says much for the 47 years Mr. Hoover has headed the FBI. It says that the only way his critics can get at him is by going outside the law. Outside the law that he and his agency have upheld; outside, for which he has become a symbol in our Republic; outside the law to which his critics are so quick to give lip service, but so quick to break when it serves their purposes.

Well, for myself, and I believe I speak for the great majority of citizens of our Republic, I much prefer the legacy J. Edgar Hoover has given this country, to the hypocritical standards shown by some of his detractors.

PLAUDITS FOR DR. NORMAN VINCENT PEALE

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. BROYHILL of Virginia. Mr. Speaker, my good friend and constituent, Mr. George Stringfellow, who is past imperial potentate of the Imperial Council of the Ancient Arabic Order of the Nobles of the Mystic Shrine for North America, was the host at a dinner in Washington last February honoring Dr. Norman Vincent Peale.

Mr. Stringfellow feels, and I agree, that Dr. Peale's message on the occasion would be of interest to many who read this RECORD. I insert the text in full, as well as Mr. Stringfellow's introduction and the response to Dr. Peale delivered by Henry C. Clausen, sovereign grand commander, the Supreme Council, Ancient and Accepted Scottish Rite of Freemasonry, southern jurisdiction, at this point in the RECORD:

INTRODUCTION BY GEORGE E. STRINGFELLOW

I am delighted to welcome our guest and introduce my friend for more than a quarter of a century, Dr. Norman Vincent Peale.

No other minister has as far-flung a pulpit as has Dr. Norman Vincent Peale, our honored guest and speaker.

Through his books, radio and television programs, speeches and published sermons and booklets, he is reaching millions of people around the world, in churches and homes, in hospitals, aboard naval vessels—including a nuclear submarine—and in prisons.

From his pulpit at Marble Collegiate Church in New York City, Dr. Peale preaches to 2000 people every Sunday.

He is the author of 16 books. He has reached his largest "congregation" through his writings, particularly through The Power of Positive Thinking, one of the most successful books ever published with a sale of more than 3,000,000 copies. It was at the top of the best seller lists for three years. It has been translated into 30 languages and has been issued in paperback edition.

Dr. Peale's weekly column, Confident Living, appears in over 200 newspapers with a readership of more than 50,000,000.

Guideposts, the inspirational monthly magazine of which he is the editor-in-chief, is read by 5,000,000 people.

The Foundation for Christian Living at Pawling, N.Y. distributes more than 25,000,000 copies of Dr. Peale's sermons, inspirational booklets and other materials each year.

Ralph Waldo Emerson, essayist, poet, thinker and minister, is considered by many to have been one of the wisest men of his time. He wrote, he said, "to awake in man and to raise the feeling of his worth." I believe Dr. Peale to be the Ralph Waldo Emerson of our time. Like Emerson, Dr. Peale addresses his audiences with the zeal of a friend, the generous energy of a father and the exhuberant affection of a mother. He learned early in life to make his words smaller than his ideas.

Throughout his career Dr. Peale has maintained a close partnership with his wife, Ruth Stafford Peale, who honors us with her presence this evening. She serves with him on the boards of the American Foundation of Religion and Psychiatry and the New York Council of Churches. She is co-editor of Guideposts and editor-in-chief of the Foundation for Christian Living.

Dr. Peale is Right Eminent Grand Prelate of the Grand Encampment of Knights Templar of the United States. He is a 33° Mason and a Shriner—a Life Member of Crescent Temple.

I present Dr. Norman Vincent Peale, God's best salesman—

THE GREATNESS OF WASHINGTON

(An address by Dr. Norman Vincent Peale, Minister, Marble Collegiate Church, New York City, at a dinner given by George E. Stringfellow, Past Imperial Potentate, at the Shoreham Hotel, Washington, D.C., February 22, 1971).

Imperial Sir George E. Stringfellow, Past Imperial Potentate; Imperial Potentate Aubrey G. Graham; distinguished Masonic leaders, and ladies:

You have to agree with me, that it's worth coming all the way down here to Washington in the rain to be compared to Ralph Waldo Emerson. I've received many remarkable introductions in my time, but I put this at the top of the list. In the first place because George made it, and he's an old and dear friend of mine, and even though I was the subject matter, I marveled at the skill of his presentation, and was really rather sorry when he concluded. It has served to restore my shattered ego.

Anyone who gets these nice things said about him is bound at times to have deflating things said as well. While he was talking, it reminded me of an experience I had a number of years ago. Senator Ferguson, with his prodigious memory, tonight reminded me that I was once a reporter on the Detroit Journal, and so I was! I had no idea of going into the ministry. It was in my mind occasionally, but I was trying to fight it, and so I went into the newspaper business.

I was first of all a reporter on the Findlay, Ohio, Morning Republican, and then went to Detroit where I was on the Detroit Journal in a similar capacity. I served under one of the greatest editors in this country, the late Grove Patterson. Struggling with the matter of the ministry versus newspaper work, I finally resolved it by deciding to become a minister.

I went in to tell Mr. Patterson the earth-shattering news that henceforth his newspaper would have to struggle along as best it could without my valued services. I thought he bore up right well. But I'll have you know that I wasn't gone from that newspaper but a year when it folded and merged with another Detroit paper.

On this occasion, Mr. Patterson congratulated me on becoming a minister. But he seemed to have his doubts, for he said, "Well, Norman, if you don't like it, or you don't do very well at it, I want you to know that your old job will always be waiting for you." I tucked this assurance up under my heart as a kind of hedge and became a minister.

One Sunday a number of years later, I was standing in my pulpit on Fifth Avenue in New York, when I happened to notice in the congregation my old editor. Being human, I wanted him to feel that his erstwhile reporter wasn't too bad in this role. I pulled out all the stops and produced what I thought wasn't too bad an effort. After the service I stood shaking hands with the people when my old editor came along in the line. I thought even though he might have to stretch the point, that Mr. Patterson would say something nice about my sermon, but instead, with a dour look, all he said was, "Well, Norman, your old job's still waiting for you."

Now on behalf of my wife Ruth, I want to thank you, George, and your charming wife Verna for having this dinner tonight and bringing together all these charming delightful people, some of whom are old friends, and some are new friends, and we're all friends. It is just like you think of doing such a nice thing as this.

But when you get down to it, I've done some nice things for him, too. So in a sense we had it coming. I think one of the nicest things I ever did for George was handled very strangely. He called me on the phone one day. He always called me "Doc." He said, "Doc, are you preaching next Sunday?" And I said "Yes." "Alright," he continued, "I'll be over, and I'm bringing along a lady and some friends, and after the service I'd like you to perform our wedding ceremony." I asked, "Are the friends aware of the wedding ceremony?" "No," he replied, "it's going to be kept a surprise from them." I commented, "You're not very economic; you're cutting off all the potential wedding presents." But that was the way he wanted it, so he came over to the church with the lady to my study afterward, and then we told the friends of what we were about to do. The shock was measurable, and so I had the pleasure of marrying George and Verna.

Which reminds me of a story my father used to tell. He was a preacher years ago in Ohio, and over 50 years a Mason himself. I never really was too sure this story was true, but he claimed it was, and I had great respect for my father's veracity, or at least for his imagination. He said that there was a minister who was just about to go into the morning service, and a couple came to him and said, "We want to be married right now!"

"Well," he replied, "I can't do it now. The organ is playing and the service is about to begin, and the choir is lined up. I couldn't possibly stop here to perform a marriage ceremony, right on the spur of the moment like this. But," he added, "I'll tell you what you do. You sit in the congregation and when the service is over, before I pronounce the benediction, I will ask you to come forward and will marry you in front of the whole congregation. How would that be?" They thought that was great, and agreed.

So he finished his sermon. The congregation sang the last hymn, and then the minister said, "Now, will those persons present desiring Holy matrimony please come forward." And thirteen women and one man came to the altar.

I am glad to be in a Masonic gathering where there are ladies present, for that uplifts the whole gathering. It certainly improves the looks of it. Most meetings that I attend that are Masonically oriented consist entirely of men. I've often wondered what Masonry would ever have done without Masonic women to back up the Masonic leaders. I mean all the Masonic "widows" that there are around the world. Women are a great influence in any organization.

This is a very laborious way of getting to what I want to tell you about the boy in school who was instructed to write an essay on the life of Benjamin Franklin. He didn't know too much about Franklin, but was aware of the salient facts.

He took a piece of paper, chewed a pencil, squirmed around on his seat, wrote at the top of the paper, "Benjamin Franklin," and produced the following masterpiece. "Benjamin Franklin was born in Boston, but he soon got tired of that and moved to Philadelphia. When he got to Philadelphia he was hungry, so he bought a loaf of bread. He put the bread under his arm. He walked up the street. He passed a woman. The woman smiled at him. He married the woman, and discovered electricity." Here we have the electricity of Masonry with us tonight.

George has asked me to speak to you for about an hour and a quarter, and I'm very glad to undertake this for fifteen minutes or so. He didn't really say that. He wants me to speak to you about George Washington, and Abraham Lincoln, and by the time we get through with that, the hour will wax late.

When he asked me to say a few words tonight on these subjects he kindly sent me two or three of his own speeches on the same subject. And I have read these speeches of his with admiration. Nobody but George Stringfellow could make those masterful speeches. Any resemblance to his speeches which you note in my remarks is without his authority.

He wrote one speech on Washington, Edison and Lincoln, stressing the fact that these three great men were born in the month of February. I heard him give this speech to the New York Kiwanis Club, and elsewhere, and it is indeed a masterpiece. He inspired me to look into George Washington a little bit. And perhaps Lincoln. This being Washington's birthday, old-style, or new-style, or what have you, it is proper to think about it, I believe.

We come to the point sometimes where we take these colossal giants for granted. Three notable men born in one month. Edison probably could be considered the greatest brain ever born in the United States. I've heard it said that Emerson, to whom you did me the honor of comparison, is the wisest American who ever lived. Abraham Lincoln, of course, is an immortal, as is Washington also. We in Masonry are especially close to him, for if my facts do not err, he laid the foundation of the National Capitol while he was Worshipful Master. The great Capitol building that stands here in this city was established on Masonic ceremonials and Masonic principles.

It is a strange thing that the humanity of Abraham Lincoln has transmitted itself in a warm and vital manner. Washington, however, is a figure that seems a bit aloof. That is not because he did not have humanity, for he did. But it has not been emphasized, as in the case of Lincoln.

I heard one of our smart young boys say not long ago that this country was founded by landed gentry, by aristocrats, the assumption being that there was something very wrong with this. But if Washington was a landed aristocrat of the gentry, he was a poor one. Indeed, his mother did have some land, but she also had seven children. And she was land-poor, with the result that "rich" George had to drop out of school when he was fourteen, and never had any further formal education.

However, he was always a reader, and a thinker, and a reflector on what he read and saw and heard. He absorbed knowledge and became one of the most educated men of his time.

He must have been a remarkable boy. At fifteen years of age, he met Lord Fairfax, who was then sixty years old. Between these two, there sprang up an enormous admiration. Fairfax had vast holdings. He employed this fifteen-year-old boy and sent him on long journeys to make vital decisions that affected his business. I cite this because it seems to picture a young man with extraordinary intelligence and maturity.

On one of these expeditions for Lord Fairfax, he and a companion were being guided by a treacherous Indian, who was in the employ of the French at Fort Duquesne. The Indian led them astray, down a wrong path where they would be ultimately ambushed, but Washington perceived the danger, and made the Indian get them back on the right path. But the Indian had been paid to kill Washington and his companion, and at least he was a faithful employee, for walking ahead of Washington in the pathway he suddenly turned around and leveled a rifle directly upon Washington, who was only fifty feet behind him.

He missed, as history knows. What might have been the effect on subsequent American history had his aim been true? It seems another evidence of that Divine Providence that shields and guards and protects a man whom God needs to carry on His work.

The most amazing thing about Washington to me is the indomitable courage and conviction that he had. The Continental Congress made him the Commander-in-Chief and gave him a title. He held that title until it was given to Ulysses S. Grant during the Civil War, General of the Army. But he did not have much of an army. There were in the thirteen colonies at that time about two and a half million people. Now just get this picture. Do you want to use the word guts? The guts that these people had to start a revolution!

There were about two and a half million people scattered the length of twelve hundred miles. On the West side they were nemmed in by hostile French and Indians; on the East side by the Atlantic Ocean. They were thirteen separate little States with as much difference between some of them as there is today between European countries, save for the language, and even the languages were dialectical.

Of this two and a half million, one half million were slaves, one million were women, who couldn't in those days, at least, be expected to bear arms. So that left one million. And of the million, ten per cent were boys, under age, aged and infirm old men. This left nine hundred thousand, and of the nine hundred thousand it is said that another half million were Tories, sympathetic and loyal to the British Crown. That left him four hundred thousand men. Out of this number he could only assemble in all the musters no more than fifty thousand men, mostly boys, half of whom were ill.

And he led this army up against the mightiest power in the world since the fall of the Roman Empire. That took what you call colossal audacity. And then he had a record of defeats that was unparalleled. Where he might have an isolated partial victory, he had one defeat after another.

Howard Fast wrote a very wonderful story of Washington's military history up to and including the fall of Trenton. He described how Washington was defeated on Long Island, how he was driven through Manhattan Island, how he was driven over the Palisades, how he was driven to Hackensack, how he was driven, one defeat after another, down through New Jersey—defeat after defeat, until his forces were decimated. It was a paltry, shabby, ragged little army that remained. Then came Christmas, and the tall Virginian, who they say was 6' 2" tall, with enormous shoulders and great hands, was sitting in his tent. He was the father. Of his Generals none of them were older than thirty. One of them, Nathaniel Greene, who loved him maybe more than the others, came to him and said, "Sir, can we go on? Our men are frozen; they are unfed; their weapons are poor. Sir, what will we do?" Washington said, "Nathaniel, there is only one thing we shall do. We shall go on! And on! And on!"

And while the Hessians had a big drunk together, he took Trenton and turned the fortunes of the war.

When finally at Yorktown the distinguished General, Lord Cornwallis, handed him his sword, he said, "Sir, I consider you one of the greatest Commanders of men in human history."

Now that is what it cost to bring this nation into being. That is what it cost to run up the stars and the stripes over a free people. It was only man-sized men like that who could do this great thing.

Think of the comparison with the little dirty boys who haul the flag down, who spit on it, and who burn it. Little! Unworthy! Misguided people! They are not in the same category with the great Washington and his ragged troops.

We who are members of Freemasonry should evermore and forever be proud that this great American, the father of his country, first in war, and first in peace, and first

in the hearts of his countrymen, was a member of the Craft. Indeed, in later years Washington was asked on one occasion, "To what do you ascribe your calmness under all circumstances, your courage in battle, your ability to think and consider, your integrity?" And Washington is reported to have responded, "I owe all of that to the fact that I was a Freemason and have endeavored to live by the precepts of the Craft."

So let us never forget to honor Worshipful Master, George Washington, first President of our country.

George, thank you again, and Verna, for the honor you do us tonight and for the pleasure to be with all of you. And God bless you everyone.

REMARKS MADE BY HENRY C. CLAUSEN, SOVEREIGN GRAND COMMANDER, THE SUPREME COUNCIL, A.A.S.R. OF FREEMASONRY, SOUTHERN JURISDICTION

Past Imperial Potentate George Stringfellow . . . Dr. Peale . . . Imperial Potentate Aubrey Graham . . . distinguished men . . . and the ladies . . .

A true story, George, which I always bring to mind when I'm honored in this fashion and you are so cordial and generous:

When I was Grand Master of California, I was once introduced by a nervous tiler in a northern California lodge as the Grand Architect of the Universe. That's how I feel following Norman Vincent Peale. Now I knew, Dr. Peale, that this couldn't be so because I was then a practicing lawyer in San Francisco.

And just a few weeks before we had a public school's week occasion and I was telling the men all about the terrible things in the 1920's, with teachers underpaid and classrooms closed. Somebody in the back said, "That's nothing, I'm from Texas and down there we had a school principal who couldn't read or write." I said, "What did you do?" . . . "We fired him." . . . What's he doing now?" . . . "He's practicing law in San Francisco."

I gave Dr. Peale tonight a copy of our current issue of "The New Age" and there's a story of the young lawyer who has a brand new, fresh, spanking office. In came his first client. So he picked up the telephone and was going to make a great impression. He said, "No, I'm sorry. I can't accept more than $100,000 in settlement of this case, but if you paid $100,000, shy, we'll take it." He put the phone down and said, "My good man, what can I do for you?" The man said, "I'm from the telephone company to hook up the telephone."

I well remember being thrilled by Dr. Peale. One occasion was the basket supper in San Francisco when we filled the Civic Auditorium . . . Dave McDaniel was the chairman. I have heard Dr. Peale many times in his church in New York. . . . If there is one thing that Dr. Peale has done tonight and has accomplished every single time that I've ever heard him, it is to make a great contribution—and so I say to you, Dr. Peale, thank you.

Certainly my response is merely to express my appreciation for your tremendous message. And I wanted to give you a gift tonight, but instead I shall give it to you tomorrow morning. It's a gift that we gave to those at our last Consistorial Session. You belong to the Northern Masonic Jurisdiction. You've been honored with the 33rd Degree. We of the Southern Jurisdiction are the Mother Supreme Council of the World. Every other Supreme Council recognized anywhere is our daughter, or child. Well, I'm going to give you this little arrangement of a picture of the first Supreme Council premises and also a medallion encased in plastic which we want you to put on your desk. Therefore, I conclude merely by expressing our great gratitude for your magnificent and manifold contributions on behalf of Freemasonry.

DALE MILLER, PRESIDENT, WATER RESOURCES CONGRESS, CRITICIZES BUREAU OF BUDGET FOR IMPOUNDING APPROPRIATED FUNDS FOR PUBLIC WORKS PROGRAMS

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. EVINS of Tennessee. Mr. Speaker, many witnesses appearing before the Subcommittee on Public Works Appropriations, which I am honored to serve as chairman, have testified concerning the alarming growth of power of the Office of Management and Budget—with specific reference to the massive and excessive withholding, freezing and impounding of funds appropriated by the Congress.

In this connection, Mr. Dale Miller, president of the Water Resources Congress, provided helpful insight and perspective as he reviewed the evolution of the Bureau of the Budget from its inception to its present position of power as an extension of Presidential authority.

Because of the importance of this subject to my colleagues and the American people, I place excerpts from Mr. Miller's statement in the RECORD herewith.

The statement follows:

REMARKS BY MR. DALE MILLER

I offer these observations in no partisan spirit, of course. We have watched with growing concern, over a period of many years and through several Administrations, the steady and seemingly relentless flow of power and authority with respect to public works away from the Legislative, and into the Executive Branch of our National Government.

There was a time when the Bureau of the Budget was merely a transmittal agency, gathering and collating the budget requests of the various Government departments and relaying them to the appropriate committees on Capitol Hill. But over the years it became more of a policy making body, determining for itself which budget requests should be recommended and which deferred. Whether the Bureau arrogated this power unto itself—or whether it moved into a sort of vacuum created by the failure of Congress to exercise it—is a debatable subject; but nonetheless the trend has been clearly discernible across the years.

Indeed, we have reached the point today where the Office of Management and Budget exercises its selectivity as to projects and amounts not only before the appropriations have been sought, but even after the appropriations have been made.

The suspicion arises that we may be approaching a cycle of futility. If the Administration transmits its public works program to Congress at the beginning of a session—if Congress then, after weeks of hearings and deliberations, supplements that program with additional projects—and if the Administration finally divests the bill of those projects which Congress added, by withholding those particular funds and restores the program to what it submitted in the first place—the question can reasonably be asked, of what real value has been the legislative process so painstakingly undergone during the intervening months.

It should be acknowledged, of course, that the funds which are impounded presumably have some priority and will be released ahead of future appropriations, but it is still a fact that they are not expended during the period for which they were specifically appropriated. This failure to do so, in our judgment, disparages the legislative process. Congress should have the right to expect that the funds it appropriates be expended forthwith, and the Administration should acknowledge its obligation to do so. They share a mutual responsibility, and each should respect the prerogatives of the other.

We at the Water Resources Congress are concerned with policies—not with personalities or parties—and we are deeply concerned today by what we feel is a persistent erosion of that constitutional separation of powers between the Executive and Legislative Branches of Government, upon which the structure of our political society rests. We respectfully urge the Congressional leadership of both parties to exert the considerable influence at its command to restore the constitutional authority to which it is entitled on Capitol Hill.

BETHLEHEM STEEL WORKS TO PROMOTE RECYCLING

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. KEMP. Mr. Speaker, Bethlehem Steel Corp. announced a corporate policy on steel can recycling aimed at helping to alleviate the Nation's litter and solid waste disposal problems.

The policy calls for Bethlehem to cooperate actively in can collection drives and to accept and recycle recovered and reprocessed steel cans made available to the company.

Lewis W. Foy, president of the corporation, said that Bethlehem formulated the can recycling policy because it shares the growing public concern over the problems of litter and solid waste disposal, of which discarded steel cans are a part. He said:

We want to do our full share in helping to solve these problems. The solid waste collection centers being established by civic-minded groups are a step in the right direction. We hope to bolster the efforts of such groups by assuring them that recovered and reprocessed steel cans—soup cans, juice cans, beer and beverage cans and others—will be accepted and recycled by Bethlehem.

Mr. Foy also explained that to encourage organized community or regional collection drives, Bethlehem will actively support the efforts of can manufacturers, scrap processors and other groups in establishing can collection stations for use by the general public.

He said that Bethlehem's general managers in communities where the corporation has offices, steel plants, mines or shipyards will handle requests for the corporation's assistance in collecting steel cans for recycling.

Mr. Speaker, Bethlehem Steel is to be complimented for their progressive attitude in assisting the various communities in solving their steel can waste problems. I have a Bethlehem steel plant in my home county—Erie, N.Y.—and I am sure the local environmental and civic groups will be anxious to work with Bethlehem officials there to expedite recycling procedures.

SUPPORT FOR A RESOLUTION TO CREATE A SELECT COMMITTEE ON PRIVACY, DEMOCRATIC INSTITUTIONS, AND HUMAN VALUES

HON. WILLIAM R. ANDERSON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. ANDERSON of Tennessee. Mr. Speaker, our distinguished colleagues, the gentleman from New Jersey (Mr. GALLAGHER) and the gentleman from New York (Mr. HORTON) this morning testified before the Rules Committee in support of their resolution to create a Select Committee on Privacy, Democratic Institutions, and Human Values.

Their statements are so excellent, so scholarly, so timely, and in my view, of such historic importance that I include them in the RECORD so that others may share them:

GALLAGHER TESTIMONY BEFORE THE COMMITTEE ON RULES, ON RESOLUTION TO CREATE A SELECT COMMITTEE ON PRIVACY, DEMOCRATIC INSTITUTIONS, AND HUMAN VALUES, WEDNESDAY, MAY 4, 1971

Mr. Chairman, and members of the Committee on Rules, it is a great pleasure for me to be here this morning to offer testimony on my resolution to create a Select Committee on Privacy, Human Values, and Democratic Institutions. Let me begin my remarks with a statement from one of America's most perceptive social observers and a man who is deeply aware of the lag between technological change and society's response. Robert Theobold has written:

"Whether increasing violence and social disorder can fairly be laid at the door of the computer is, however, peripheral to the possibility of the development of a police state. . . ."

Mr. Theobold continues:

". . . the generalized use of the computer as a means of social control threatens to destroy at least the right of privacy, and very probably *all* the present rights of the individual. . . ."

He then pleads for laws to be developed which will utilize the wonders of computer technology without the clear threat he sees to all of our rights.

This, Mr. Chairman, is exactly what my proposed Select Committee is ultimately designed to accomplish. Since the hearings I held with my Privacy Inquiry of the House Committee on Government Operations into a proposed national data bank in 1966, I have been very concerned about the inability of the people's representatives to grapple with technological change. For the computer, with its enormous ability to collect and retrieve information, was totally unknown when our Bill of Rights was framed and, unfortunately, its total impact on our system of government is the source of considerably more noncongressional worry than it is a subject of investigation within the Congress.

When we called attention to the computer's ability to invade privacy in 1966, it was a very new concept. Now, we have seen Senator Ervin's hearings with his Constitutional Rights Subcommittee disclosing example after example of the power of technology to assemble mountains of information on the lawful activities of our citizens. Since my 1966 hearings, I have frequently pointed out specific threats in the credit reporting industry, the marriage of sophisticated photographic methods with the computer, and the increased instances of almost lawless personal record-keeping permitted by the new technology.

All of this, however, has been concerned with specific cases, and let me say I could speak for several hours with example after example of the new technology. But let me refer to one of the most recent, and one of the best books, on this subject. Professor Arthur R. Miller writing in his splendid *The Assault on Privacy* says that a broad view of the entire problem is necessary and he endorses my request for a fully funded, fully staffed committee.

I believe the Committee will soon receive, or has received already, letters from Professor Miller, Dr. Alan Westin, who heads a National Academy of Sciences' group considering computerized data banks and civil liberties, journalists who have covered this area, and professionals from the computer community. Indeed, it might fairly be said that everyone recognizes the threat except those who will have their power stripped away: Members of the Congress of the United States.

Interestingly, each review of the many books on privacy looks to the Congress to assert the human values, and to try to measure and hopefully guide the massive change technology is forcing upon us. In Irving Toffler's phrase, we will all suffer *Future Shock*.

Toffler also says that we must begin to practice anticipatory democracy; that is, we must create a government whose institutions are knowledgeable enough about change to have some ability to direct that change.

Not only do we in the Congress have no formal mechanism to assure "anticipatory democracy," the growth of computer power in the Executive Branch is denying us the exercise of our constitutionally mandated "participatory democracy." We in the Congress are in real danger of becoming solely a ceremonial body, of becoming a supine figurehead on a ship of state, steered by the Executive Branch's computers, which is heading straight for the rocks.

Not only are we not representing ourselves in the policy making area, but we are allowing those who have reposed their trust in us, our constituents, to gradually be stripped of a feeling of participation. The rising tide of frustration and powerlessness we see all around us is due, to some degree, to the fact that every proposed piece of legislation sent to us from the Executive Branch or that we develop ourselves, calls for the gathering of more personal information by the Federal Establishment. If we can make sure that every law we pass contains safeguards for that information, and perhaps more important, if every concerned legislative committee insists that the collection of information is fully justified, we will be able to assure our constituents that we are playing a meaningful role.

It will not undermine the potential threat of the computer to point out that many current computer applications just do not work. In some cases the down time is as high as 60% and one pertinent role of a Select Committee would be to strip away the science fiction surrounding the computer and to insist that the computer industry develop more accurate systems. But in the area of genetic engineering, there simply is no science fiction. Almost every form of life will someday yield to the test tube and a managed environment for conception, growth, and lifelong manipulation is within the predictable future. Coupled with the use of chemical technology to alter life-styles, moods, and attitudes of our citizens, we are creating a radically different sort of society from that which you and I know. Yet, the Congress continues to be almost indifferent.

America is a mixture of dozens of different cultural and ethnic heritages and yet often those who manipulate the new technologies believe that everyone must be a mirror image of themselves. We are in the process of creating a technocratic elite who produce programs of massive impact but who do not consider fully the ramifications of their actions beyond short term successes. A man very different from Robert Theobold, indicating the range of philosophies concerned, has commented on this problem. One of the prime proponents of the new life style, Paul Goodman, said:

"Human beings tend to be excluded when a logistic" (that is, a computer-oriented) "style becomes universally pervasive, so that values and data that cannot be standardized and programed are excluded, when function is adjusted to the technology rather than technology to function . . . when there develops an establishment of managers and experts who license and allot resources, and which deludes itself that it alone knows the only right method . . . then common folk become docile clients, maintained by sufferance, or they are treated as deviant."

And, unfortunately, it could well be said that the Congress itself is often a docile client of an all knowing technocratic elite.

And this power is not only in the Executive Branch, Mr. Chairman. Academies devise psychological tests which mirror their own pre-conceptions of what constitutes decent behavior; businessmen exchange data on social, moral, and economic life of citizens only allowing them limited access to information which determines their ability to get credit, insurance, or employment; medical and school personnel administer behavioral modification drugs to grammar school children, sometimes without analyzing the socially inspired reasons for what they term "learning disabilities;" Federally sponsored research reports launch plans which are buried deeply within the bureaucracy until they burst forth on an astonished and fearful citizenry; congressional committees approve efficient and economical schemes without being able to develop information which allows a just consideration of the long range impact on our shared values. The list is endless.

I might describe what is happening, Mr. Chairman, by saying that we all now recognize that the pollution of the physical atmosphere is the result of some technologies, but that we are unaware of the pollution of the political atmosphere. Technology's tools spearheaded by the computer, have so accelerated the pace of change that we are in grave danger of losing our form of government. Certainly, in so many areas, the House of Representatives has already lost its relevance.

And so, Mr. Chairman, I implore this Committee to approve the Select Committee on Privacy, Human Values and Democratic Institutions. It would be a major aid to our constituents, our Constitution, and our Congress.

TEXT OF CONGRESSMAN HORTON'S TESTIMONY BEFORE THE COMMITTEE ON RULES IN SUPPORT OF A PROPOSAL TO ESTABLISH A SELECT COMMITTEE ON PRIVACY, HUMAN VALUES, AND DEMOCRATIC INSTITUTIONS

Mr. Chairman, I ask your indulgence for a few minutes in order to place my discussion in its philosophical perspective. Our forebears, some hundreds of thousands of years ago, conducted themselves under primitive conditions and acted with a savagery we would consider appropriate for animals. Time improved that, with fire, the wheel, steel and gunpowder, the steam engine and the industrial revolution. But let us consider for a minute what man has wrought. The bulldozer and dynamite have made him stronger; he can literally move mountains. The plane and car have made him swifter. The furnace and air conditioner have changed the "weather" he must live in. Telescopes enable him to see objects so distant, that their proximity must be measured in light years. And the computer has made him not wiser—but more clever, extending memory, evaluation and calculation to a degree almost incomprehensible.

This technology has taken its toll. C. P. Snow, the British philosopher, can remem-

ber the public outcry to ban automobiles after the first fatal accident in London. But humans became regarded as less unique, and the auto stayed—despite 60,000 auto deaths a year in this country alone. Life expectancy in smog-ridden New York City is statistically less than elsewhere in America. The cost has been an aesthetic one also. As the writer put it, "You may fly. . . but the birds will lose their wonder. And the clouds will reek of gasoline."

Fortunately, we have reached a point in which some of the costs have been found prohibitive and corrective steps have been taken. Automobiles must be developed which will not poison our air. Food preservatives, an excellent concept, have been found harmful and are closely controlled. Industries must curtail pollutant operations. This revolt against the abuse of man, against unguided and uncontrolled technology has recently turned to the computer. A machine, no larger than this table, which can memorize more and better than we could in a hundred lifetimes, has been found a threat to the quality of life and society that we hold dear. Why? Because privacy has and continues to be abused as man failed to discern the computers' effect on our lives. The horror stories are legion, and they range from political surveillance—to the information on file at credit bureaus, which—accurate or not—is freely available to almost anyone.

The job of government—any government—Mr. Chairman, is to identify the problems of society and then go about solving them. I submit that the matter of privacy and human values, and democratic institutions is a matter of concern to most Americans, and thus, a legitimate subject of study for America's leaders.

The Committee envisioned in this legislation would not have a regulatory role. It would, however, have an attentive function in assessing the unintentional, unconscious, but nevertheless growing threat to one of our basic freedoms—privacy. Our nation was based on the revolutionary and unique notion that a man's thoughts, his private affairs, and his activity were his own business insofar as they did not pose danger to others or to the public welfare. But America has since approached middle-age, with attendant changes in outlook.

In today's age, we see government officials demanding to see the private papers and notes of newsmen. We are told that there is no inherent right of privacy, that individuals, including any Senator or Congressman, can—theoretically, be placed under surveillance without his rights infringed. We are asked to trust in the "self-restraint" of the government in these matters.

I submit, Mr. Chairman, that this erosion of freedom is a matter of great importance, especially its deteriorating effect on our privacy, our uniqueness as individuals. It is imperative that a committee undertake a study of where this development is taking us as a society. You will note, Mr. Chairman, from my previous remarks, that there will be a great deal of disagreement on the questions alone before we can even begin to seek answers. But the study must be undertaken if we are to transfer to our grandchildren and theirs the quality of life and the heritage of personal liberty and individual uniqueness we received from our forebears. For individuality is an absolute necessity for the survival of democracy. Without privacy and free expression, no free nation can remain free. There are three specific areas I would like to cover and then I would be glad to try to answer any specific questions the Committee may have. The three areas are (1) the essentially bipartisan nature of the work of the proposed Select Committee; (2) the particular necessity at this point in time for such work to be mounted here in the House of Representatives; and (3) the reason why this work would permit the House of Representatives to remain relevant to current national problems by what I would regard as a most significant act of internal reform by creating this Select Committee.

First, few issues with which I have been associated have drawn support from a wider spectrum of philosophies and political views. My presence here today as well as my words demonstrate that one Republican strongly supports this concept and I feel I can speak for many of my colleagues on my side of the aisle when I say there is no partisanship involved.

When I was a member of Congressman Gallagher's Privacy group in the House Government Operations Committee, our hearings in 1965, 1966 and 1968 were held during Democratic Administrations. The hearing into the proposed National Data Bank was especially revealing, because we learned that the top political advisors in those Administrations had little or no knowledge of what was being proposed in the middle levels of the bureaucracy. As President Nixon has learned since he has assumed his position, administrations inherit both huge problems and huge, immovable bureaucracies. We found in our work with the privacy study that programs which threaten privacy are advanced by people who are largely indifferent to partisan politics, who propose to spend millions of public dollars, and who are seldom if ever identified in the same way men in public life are held accountable for their decisions. It may well be that a major task of the Select Committee would be to give visibility to certain bureaucratic suggestions before they become issues which could divide Republican from Democrat and liberal from conservative.

A Select Committee would, I feel, bring us together to preserve the common good rather than create any partisan arguments.

President Nixon in a recent news conference said that this Administration would take no actions to infringe on the right of privacy. I believe Mr. Nixon, just as we believed Mr. Johnson, but the Federal Government is so large that neither of the Presidents could be sure. One task of the proposed Select Committee would be to make independent evaluations of proposals which could threaten what any President wants for his country.

When we held our hearing into the computer and invasion of Privacy in 1966, we called attention to a threat to America which the distinguished southern Senator, Sam J. Ervin, recently laid out in truly appalling detail. The insights of the Privacy Inquiry were indisputably proven during Mr. Ervin's hearings.

I am sure that Mr. Gallagher, in his statement, has shown how we could remain relevant as an institution if the House were to establish this Select Committee. I just want to add an additional point, and this has to do with reforming our procedures. The Nation is now in turmoil and many of our constituents, rightly or wrongly, feel that their basic human rights are being threatened. We have in this Congress three permanent Committees which work to guard our society against crime and disorder, worthy pursuits which can, on occasion, step too far toward limiting the privacy rights of our citizens. These committees are: Committee on the Judiciary; the Select Committee on Crime; and the House Internal Security Committee.

Let me immediately say that I do not share the view that these Committees consciously help to restrict individual rights in America. But one of the central messages of those who insist we reform this House is that we are not equipped to deal with the rising demands of those who demand a fuller expression of their basic humanity. It seems to me that one Select Committee looking into privacy could balance the perspective of the House, which must watch over both the personal safety and individual rights of Americans.

Naturally, a Select Committee would not undermine the work done by other Committees in the House, but it would permit what are now only powerless cries of frustration to be funneled into a formal channel and it would permit other voices to be heard as we arrive at our decisions.

Many observers contend that the computer will have a more powerful impact on society than did the printing press. I think the major thrust of the Select Committee in conducting continuing investigations of existing and proposed computerized information systems, both those within Government and in private hands, will allow democracy to flourish along with this essential new means of record keeping. Neither Congressman Gallagher nor I are against the computer, but we do share the view that it must be used carefully, under controls, and in full consonance with the Bill of Rights. We have no present means within the House, or indeed within the Congress to receive expert advice and to conduct knowledgable investigations in this field. The Select Committee would put that expertise here within the House, rather than having it all within the Executive Branch.

In my opinion, what we are discussing is allowing the Congress to remain responsive to current concerns. I hope that you will look with favor or the creation of a Select Committee on Privacy, Human Values, and Democratic Institutions.

THE COTTER HEALTH PLAN

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. COTTER. Mr. Speaker, I have just received a clean draft of the bill H.R. 8351, the Cotter health plan. On Wednesday, May 1, I described this legislation in great detail. I wish at this point in the RECORD, to insert the entire text of the bill for the benefit of my constituents.

H.R. 8351

A bill to improve the quality, and lessen the cost, of health care services provided to citizens of the United States under both public and private programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Health Care Act of 1971".

TITLE I—PROVISIONS TO MAKE COMPREHENSIVE HEALTH-CARE INSURANCE AVAILABLE TO ALL

SUBTITLE A—ESTABLISHMENT OF MINIMUM STANDARD HEALTHCARE BENEFITS

SEC. 101. DEFINITION OF MINIMUM STANDARD HEALTHCARE BENEFITS.

(a) IN GENERAL.—Section 213 of the Internal Revenue Code of 1954 is amended by adding at the end thereof (following the new subsection (g) thereof added by this Act) the following new subsection:

"(h) DEFINITION OF MINIMUM STANDARD HEALTHCARE BENEFITS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection or in other provisions of law to which the provisions of this subsection are made applicable, the Minimum Standard Healthcare Benefits, and the priority designations thereof, shall be as specified in the table in subparagraph (A).

"(A) TABLE OF MINIMUM STANDARD HEALTHCARE BENEFITS.—The table referred to in the first sentence of this paragraph is as follows:

"TABLE OF MINIMUM STANDARD HEALTH-CARE BENEFITS

Benefit—The plan shall pay the charge described in this column	Copayment except that the covered individual shall pay such portion of such charges as is specified in this column	Priority and required coverage for any such charge shall be in accordance with the priority indicated in this column
1. Charges made by a licensed physician for professional services rendered—		
(a) at a physician's office (by the physician or, at his direction by his staff of nurses (RN) and allied health professionals)—		
(i) for diagnosis and treatment of one or more conditions (except pregnancy) other than by surgery or radiation therapy		
(A) on the first three days of such care per year per individual	$2 per day per physician's office	I
(B) on the next three days of such care per year per individual	$2 per day per physician's office	II
(C) on any additional day of such care per year per individual:		
mental conditions	50 percent	III
all other conditions (except pregnancy)	$2 per day per physician's office	III
(ii) for one or more surgical procedures for treatment of conditions (other than pregnancy) including any charge for anesthesia or the rendering thereof, for casts, dressings or other surgical supplies, and for postoperative visits—all days of such care per year per individual.	$2 per day per physician's office	I
(iii) for radiation therapy for treatment of conditions (other than pregnancy) by X-ray or radioactive materials including charges for such materials—all days of such care per year per individual.	$2 per day per physician's office	I
(iv) for diagnostic X-rays, laboratory tests, electrocardiograms and other diagnostic tests required in connection with care described in (i), (ii), (iii) above and (b) below.	None	I
(v) for counseling on birth control and for fitting of contraceptive devices	None	II
(vi) for pregnancy—see Item 9 below.		
(vii) for periodic health examinations, including immunizations,		
(A) for infants under age 5 (well baby care)—		
during first 6 monghs following birth—first six such exams	None	I
during next 18 months—first six such exams	None	II
during next 3 years—first three such exams	None	III
(B) for individuals ages 5 through 39—one such exam every 5 years	None	III
(C) for individuals ages 40 and over—one such exam every 2 years	None	III
(viii) for physical therapy	20 percent	II
(ix) for speech therapy	20 percent	III
(x) for eye examinations—see item 5 below.		
(b) at the individual's home or elsewhere (other than at a hospital, extended care facility, or the physician's office) by the physician for diagnosis and treatment of—		
(i) mental conditions	50 percent	III
(ii) all other conditions (except pregnancy)	$5 per day per physician	III
(c) at a hospital, by the physician for the diagnosis and treatment of one or more conditions other than pregnancy:		
(i) during first 30 days of the confinement	$2 per day (applicable only to the charges of the attending physician).	II
(ii) during 31st through 120th days of the confinement		II
(iii) during 121st through 300th days of the confinement		III
(iv) in any day of the confinement for which no hospital benefit is payable under item 6(a) below	$5 per day per physician	I
(d) at an extended care facility by the physician for the diagnosis and treatment of one or more conditions other than pregnancy:		
(i) during first 60 days of confinement	$2 per day (applicable only to the charges of the attending physician).	I
(ii) during 61st through 120th days of the confinement		II
(iii) during 121st through 180th days of the confinement		III
(iv) on any day of the confinement for which no extended care benefit is payable under Item 7(a) below	$5 per day per physician	I
2. Charges by a qualified independent laboratory for laboratory examinations prescribed by a licensed physician pursuant to his rendering the services described in Item 1.(a) (i), (ii), (iii) and Item 1.(b) above.	None	I
3. Charges by a licensed dentist for professional services rendered either by the dentist or at his direction by his office staff of allied health professionals for—		
(a) Annual oral examination (including prophylaxis and dental X-rays)—		
(i) Individual under age 19	None	II
(ii) All others	None	III
(b) Amalgam fillings, extractions, dentures for—		
(i) Individual under age 19	20 percent	II
(ii) All others	20 percent	III
(c) Other dental care (except orthodontia)	50 percent	III
4. Charge for the following when prescribed by a licensed physician:		
(a) Drugs requiring a prescription, and insulin, digitalis, and such other life-preserving nonlegend drugs as are specified by the Secretary of Health, Education, and Welfare.	$1 per prescription	II
(b) Contraceptives for birth control	None	II
(c) Prosthetic appliances	20 percent	II
(d) Services of physical therapist	20 percent	II
(e) Services of speech therapist	20 percent	III
5. (a) Charges for eye examinations by a licensed physician or optometrist for—		
(i) Individual under age 19—no more than 1 examination per year	None	III
(ii) Individual age 19 and over—no more than 1 examination every three years	50 percent	III
(b) Charges for eyeglasses prescribed by a licensed physician or optometrist:		
(i) Individual under age 19—no more than one set of frames and lenses per year	None	III
(ii) Individual age 19 and over—no more than one set of frames and lenses every 3 years	50 percent	III
6. (a) Charges by a hospital for ward or semi-private accommodations and for ancillary services used while the individual is confined as an inpatient for one or more conditions other than pregnancy:	$10 first day and $5 per day thereafter	I
(i) first 30 days of the confinement		
(ii) 31st through 120th days of the confinement	$5 per day	II
(iii) 121st through 300th days of the confinement	$5 per day	III
(b) Charges by a hospital for services rendered by it on a non-in-patient basis	Same as for equivalent services under item 1(a)	
7. (a) Charges by an extended care facility for ward or semi-private accommodation and for ancillary services used while the individual is confined as an in-patient for one or more conditions other than pregnancy:		
(i) first 60 days of the confinement	$2.50 per day	I
(ii) 61st through 120th days of the confinement	$2.50 per day	II
(iii) 121st through 180th days of the confinement	$2.50 per day	III
(b) Charges by an extended care facility for services rendered by it on a non-in-patient basis	Same as for equivalent services under item 1(a).	
8. Charges by a home health agency for home health services rendered by it under a plan except for services rendered in connection with pregnancy:		
(i) first 90 days of the plan	$2.50 per day of services rendered	I
(ii) 91st through 180th days of the plan	$2.50 per day of services rendered	II
(iii) 181st through 270th days of the plan	$2.50 per day of services rendered	III
9. Pregnancy—Charges for any of the services referred to in terms (1), (2), (6), (7), and (8) above when such services are rendered in connection with a pregnancy and any complications thereof during the period commencing with the date of inception of the pregnancy and ending with the ninetieth day following termination of the pregnancy.	20 percent	II

"(B) LIMITATIONS.

"(i) In applying subparagraph (A), any two or more periods of confinement shall be considered a single period of confinement unless separated by at least 60 days without any confinement for any cause.

"(ii) In applying subparagraph (A), the total of any copayments and of any deductibles may not exceed the amount determined under the following table:

"If the adjusted gross income—	The total may not exceed—
Does not exceed $5,000	4 percent of the adjusted gross income.
Exceeds $5,000 but does not exceed $7,500.	$200, plus 6 percent of the excess.
Exceeds $7,500	$350, plus 8 percent of the excess.

"(C) EXCLUSION.—The benefits specified in subparagraph (A) do not include any of the following:

"(i) any charge for care for any injury or disease arising out of and in the course of employment;

"(ii) any charge for hearing aids;

"(iii) any charge for treatment for cosmetic purposes;

"(iv) any charge for travel (other than travel by local professional ambulance to the nearest health care institution qualified to treat the illness or injury);

"(v) any charge for confinement in a pri-

vate room to the extent in excess of the institution's charge for it most common semi-private room; or

"(vi) any charge by health care institutions specified in the table to the extent that it is determined under section 2008 of title XX of the Social Security Act that the charge exceeds the rates approved thereunder, or any charge for services or supplies rendered or prescribed by a physician, dentist, or other health care personnel specified in the Table to the extent that it is determined under the procedures established in section 2002(e)(2) of title XX of the Social Security Act that the charge is unreasonable or that the services or supplies for which the charge is made are not medically necessary.

"(D) DEFINITIONS.—The following terms in the Table of Minimum Standard Healthcare Benefits in subparagraph (A) shall have the following meanings:

"(i) The term 'physician' means a doctor of medicine (M.D.), doctor of osteopathy (D.O.), and, for purposes of oral surgery only a doctor of dental surgery (D.D.S.).

"(ii) The term 'physician's office' means any facility in which the physician usually treats his ambulatory patients. For purposes of determining the amount of copayment due in subparagraph (A), a physician will be considered to have a separate office unless he is a member of a group of physicians who have joined together under a contractual arrangement and bill as a single entity, in which case the group of physicians shall be considered to have a single 'physician's office.'

"(iii) The term 'attending physician' means the physician having primary responsibility for the medical care rendered the individual.

"(iv) The terms 'extended care facility', 'home health agency' and 'hospital' (herein referred to as 'health care institutions'), and 'home health services' shall have the meanings assigned to them in section 1861 of the Social Security Act.

"(v) The term 'licensed' means that the practitioner or health care institution is legally authorized by the State to provide the services rendered in that State.

"(2) PRESIDENTIAL POWER TO DEFER PHASE-IN OF BENEFITS.—The President of the United States, after receiving from his Council of Health Policy Advisers the Council's Annual Health Report for any year, may find that there are not then in being in the Nation sufficient health care facilities and services to supply any benefit in the Table of Minimum Standard Healthcare Benefits having a priority designation such that the benefit is not then required (under the applicable provisions of law otherwise fixing the time for phase-in of such benefit) to be provided as a condition to qualification of a Qualified Employee Healthcare Plan (defined in section 280(c)), a Qualified Individual Healthcare Plan (defined in subsection (g)) or a Qualified State Healthcare Plan (defined in section 2002 of title XX of the Social Security Act). If he so finds, the President may, by Executive order issued not less than 12 months prior to the time otherwise scheduled for phase-in of such benefit under such a plan, defer the time for phase-in of such benefit. If the President, by Executive order issued by him pursuant to the provisions of the preceding sentence, defers the time otherwise scheduled for phase-in of a benefit under such a plan, no such benefit shall be required to be provided under such a plan until such date as shall be fixed by Executive order issued by the President for phase-in of such benefit."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SUBTITLE B—COVERAGE UNDER MEDICARE PROGRAM

SEC. 111. MINIMUM STANDARD HEALTHCARE BENEFITS.

Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"MINIMUM STANDARD HEALTHCARE BENEFITS

"SEC. 1876. (a)(1) Notwithstanding any other provisions of this title, the benefits provided under this title shall provide at least the Minimum Standard Healthcare Benefits (as defined in section 213(h) of the Internal Revenue Code of 1954) in accordance with the following schedule:

"(A) Priority I benefits after December 31, 1972;

"(B) Priority I and II benefits after December 31, 1975; and

"(C) Priority I, II, and III benefits after December 31 1978.

"(2) The President of the United States, by Executive order issued by him pursuant to the provisions of section 213(h) of the Internal Revenue Code of 1954, may defer the date otherwise scheduled under paragraph (1) (B) or (C) for phase-in of any priority II or priority III benefit, but only if such Executive order defers on like terms the date otherwise scheduled for phase-in of such benefit for purposes of Qualified Employee Health Care Plans (described in section 280 (c) of the Internal Revenue Code of 1954).

"(b) The provisions of this title shall not be treated as failing to meet the requirements of subsection (a) to the extent that—

"(1) A covered individual is required to pay a deductible before benefits for some or all types of health care expenses are payable under this title. The amount of the deductible may not be greater when a service is rendered on an ambulatory basis than when that service is rendered on an inpatient basis in a hospital or other health care institution.

"(2) In lieu of the copayment amounts described under section 213(h) of the Internal Revenue Code of 1954 in the Table of Minimum Standard Healthcare Benefits, this title may require copayments for expenses in excess of any required deductible, in an amount not to exceed 20 percent of covered expenses, except where a higher percentage copayment for a given benefit expense category is provided for under the Minimum Standard Healthcare Benefits.

"(c)(1) The Secretary of Health, Education, and Welfare shall prescribe regulations to carry out the provisions of this section.

"(2) Regulations under this subsection shall be prescribed in final form not less than 120 days before the first day of the calendar year during which they will apply.

"(3) No regulation prescribed under this subsection shall be effective unless—

"(A) prescribed within the time provided by paragraph (2), and

"(B) notice of the proposed regulations and of opportunity for public hearing thereon was published not less than 60 days before the date on which prescribed."

PART B—COVERAGE UNDER MEDICARE PROGRAM

PAYMENT UNDER MEDICARE PROGRAM TO INDIVIDUALS COVERED BY FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

SEC. 121. Section 1862 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c) No payment may be made under this title with respect to any item or service furnished to or on behalf of any individual on or after January 1, 1973, if such item or service is covered under a health benefits plan in which such individual is enrolled under chapter 89 of title 5, United States Code, unless prior to the date on which such item or service is so furnished the Secretary shall have determined and certified that the Federal employees health benefits program under chapter 89 of such title 5 has been modified so as to assure that—

"(1) there is available to each Federal employee or annuitant upon or after attaining age 65, in addition to the health benefits plan available before he attains such age, one or more health benefits plans which offer protection supplementing the combined protection provided under parts A and B of this title and one or more health benefits plans which offer protection supplementing the protection provided under part B of this title alone, and

"(2) the Government will make available to such Federal employee or annuitant a contribution in an amount at least equal to the contribution which the Government makes toward the health insurance of any employee or annuitant enrolled for high option coverage under the Government-wide plans established under chapter 89 of such title 5, with such contribution being in the form of (A) a contribution toward the supplementary protection referred to in paragraph (1), (B) a payment to or on behalf of such employee or annuitant to offset the cost to him of coverage under parts A and B (or part B alone) of this title, or (C) a combination of such contribution and such payment."

HOSPITAL INSURANCE BENEFITS FOR UNINSURED INDIVIDUALS NOT ELIGIBLE UNDER PRESENT TRANSITIONAL PROVISION

SEC. 122. (a) Section 103 (a) of the Social Security Amendments of 1965 is amended—

(1) by redesigning clauses (A) and (B) in paragraphs (2) and (4) as clauses (i) and (ii), respectively, and by redesignating paragraphs (1), (2), (3), (4), and (5) as subparagraphs (A), (B), (C), (D, and (E), respectively;

(2) by striking out all that follows "Anyone who—" and precedes subparagraph (B) (as redesignated by paragraph (1) of this subsection) and inserting in lieu thereof the following:

"(1)(A) has attained the age of 65,";

(3) by adding "or" at the end of subparagraph (E) (as so redesignated);

(4) by striking out "shall (subject to the limitations in this section)" and all that follows down through the period at the end of the first sentence and inserting in lieu thereof the following:

"(2)(A) meets the provisions of subparagraphs (C) and (D) of paragraph (1),

"(B)(i) has attained the age of 65, or (ii) is entitled to monthly insurance benefits under section 202 or 223 of the Social Security Act.

"(C) does not meet the provisions of subparagraph (B) of paragraph (1), and

"(D) has enrolled (i) under section 1837 of the Social Security Act and (ii) under subsection (d) of this section,

shall (subject to the limitations in this section) be deemed, solely for purposes of section 226 of the Social Security Act, to be entitled to monthly insurance benefits under section 202 of such Act for each month, beginning—

"(i) in the case of an individual who meets the provisions of paragraph (1), with the first month in which he meets the requirements of such paragraph, or

"(ii) in the case of an individual who meets the provisions of paragraph (2), with the day on which his coverage period (as provided in subsection (d)) begins,

and ending with the month in which he dies, or, if earlier, the month before the month in which he becomes (or upon filing application for monthly insurance benefits under section 202 of such Act would become) entitled to hospital insurance benefits under section 226 of such Act or becomes certifiable for purposes of such section as a qualified railroad retirement beneficiary.";

(5)(A) by striking out "the preceding requirements of this subsection" in the second sentence and inserting in lieu thereof "the requirements of paragraph (1) of this subsection" and (B) by striking out "paragraph (5) hereof" and inserting in lieu thereof "subparagraph (E) of such paragraph"; and

(6) by striking out "paragraphs (1), (2), (3), and (4)" in the third sentence and inserting in lieu thereof "subparagraphs (A), (B), (C), and (D) of paragraph (1)".

(b) Section 103(b) of such Amendments is amended (1) by inserting "(i)" after "individual" in the second sentence, and (2) by adding before the period at the end thereof

the following: ", or (ii) (with respect to an enrollment under subsection (d)(1)) for any month during his coverage period (as provided in subsection (d))".

(c) Section 103(c)(1) of such Amendments is amended by striking out "this section" and inserting in lieu thereof "paragraph (1) of subsection (a) of this section".

(d) Section 103 of such Amendments is further amended by adding at the end thereof the following new subsections:

"(d)(1) An individual who meets the conditions of subparagraphs (A), (B), and (C), of paragraph (2) of subsection (a) and has enrolled under section 1837 of the Society Security Act may enroll for the hospital insurance benefits provided under subsection (a).

"(2) The provisions of sections 1837, 1838, 1839, and 1840 (relating to enrollments under part B of title XVIII of the Social Security Act) shall be applicable to the enrollment authorized by paragraph (1) in the same manner, to the same extent, and under the same conditions as such sections are applicable to enrollments under such part B, except that for purposes of this section such sections 1837, 1838, 1839, and 1840 are modified as follows:

"(A) the term 'paragraph (1) and (2) of section 1836' shall be considered to read 'subparagraphs (A) and (B) of paragraph (2) of section 103(a) of the Social Security Amendments of 1965';

"(B) the term 'March 1, 1966' shall be considered to read 'March 31, 1972';

"(C) the term 'May 31, 1966' shall be considered to read 'March 31, 1972';

"(D) the term '1969' shall be considered to read '1973';

"(E) subsection (a)(1) of such section 1838 shall be considered to read as follows:

"'(1) in the case of an individual who enrolls for benefits under subsection (a) of section 103 of the Social Security Amendments of 1965 pursuant to subsection (c) of section 1837 (as made applicable by section 103(d)(2) of such Amendments), January 1, 1972, or, if later, the first day of the month following the month in which he so enrolls; or';

"(F) subsection (b) of such section 1838 shall be considered amended by adding at the end thereof the following new sentence: 'An individual's enrollment under subsection (d) of section 103 of the Social Security Amendments of 1965 shall also terminate (i) when he satisfies subparagraphs (B) and (E) of paragraph (1) of subsection (a) of such section, with such termination taking effect on the first day of the month in which he satisfies such subparagraphs, or (ii) when his enrollment under section 1837 terminates, with such termination taking effect as provided in the second sentence of this subsection.';

"(G) subsection (a) of such section 1839 shall be considered to read as follows:

"'(a) The monthly premium of each individual for each month in his coverage period before July 1973 shall be $27.';

"(H) the term '1967' when used in subsection (b)(1) of such section 1839 shall be considered to read 'June 1973';

"(I) subsetcion (b)(2) of such section 1839 shall be considered to read as follows:

"'(2) The Secretary shall, during December of 1972 and of each year thereafter, determine and promulgate the dollar amount (whether or not such dollar amount was applicable for premiums for any prior month) which shall be applicable for premiums for months occurring in the 12-month period commencing July 1 of the next year. Such amount shall be equal to $27 multiplied by the ratio of (1) the inpatient hospital deductible for such next year, as promulgated under section 1813(b)(2), to (2) such deductible promulgated for 1972. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1.'; and

"(J) the term 'Federal Supplementary Medical Insurance Trust Fund' shall be considered to read 'Federal Hospital Insurance Trust Fund'.

"(e) Payment of the monthly premiums on behalf of any individual who meets the conditions of subparagraphs (A) and (B) of paragraph (2) of subsection (a) and has enrolled for the hospital insurance benefits provided under subsection (a) may be made by any public or private agency or organization under a contract or other arrangement entered into between it and the Secretary if the Secretary determines that payment of such premiums under such contract or arrangement is administratively feasible."

SUBTITLE C—QUALIFIED EMPLOYEE HEALTHCARE PLANS

SEC. 131. EMPLOYER'S DEDUCTION FOR EMPLOYEE HEALTH CARE EXPENDITURES.

(a) IN GENERAL.—Part IX (relating to items not deductible) of subchapter B of chapter 1 of subtitle A of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new section:

"SEC. 280. EMPLOYEE'S DEDUCTION FOR EXPENDITURES FOR EMPLOYEE HEALTH CARE.

"(a) LIMITATION ON DEDUCTION.—Except as provided in subsection (b), no deduction shall be allowed for one-half of any amount otherwise allowable as a deduction for the taxable year under section 162, 212, or 404 for any amount paid or incurred by the taxpayer for medical care of any employee of the taxpayer or of any dependent or relative of such employee.

"(b) EXCEPTION WHERE EMPLOYER MAINTAINS QUALIFIED EMPLOYEE HEALTHCARE PLAN.—The limitations of subsection (a) shall not apply for any portion of any taxable year during which the taxpayer has in force a Qualified Employee Healthcare Plan which satisfies all the requirements of subsection (c).

"(c) QUALIFIED EMPLOYEE HEALTHCARE PLAN DEFINED.—For the purposes of this title, the term 'Qualified Employee Healthcare Plan's means a plan of employee health care benefits (as defined in subsection (d)(4)) which satisfies all of the following requirements:

"(1) IN WRITING.—The plan must be in writing.

"(2) ADOPTED BY EMPLOYER.—The plan must be adopted by the taxpayer employer.

"(3) COMMUNICATION TO EMPLOYEES.—The terms of the plan must be communicated by the taxpayer to his employees.

"(4) MINIMUM STANDARD HEALTHCARE BENEFIT PRIORITIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the plan must provide at least the minimum Standard Healthcare Benefits (described in section 213(h)) in accordance with the following schedule:

"(i) Priority I benefits after December 31, 1972;

"(ii) Priority I and II benefits after December 31, 1975; and

"(iii) Priority I, II, and III benefits after December 31, 1978.

"(B) PRESIDENTIAL DEFERRAL OF SCHEDULE FOR PHASE-IN OF BENEFITS.—The President of the United States, by Executive order issued by him pursuant to the provisions of section 213(h), may defer the date otherwise scheduled under subparagraph (A)(ii) or (A)(iii) for phase-in of any priority II or priority III benefits but only if such Executive order defers on like terms the date otherwise scheduled for phase-in of such benefits for purposes of Qualified Individual Healthcare Plans (described in section 213(g)).

"(5) ELIGIBILITY.—The plan must be one under which the individuals eligible to be covered include—

"(A) all active full-time and all part-time employees of the taxpayer who work not less than 20 hours a week for not less than 26 weeks during the calendar year;

"(B) any such employee's spouse, and

"(C) any such employee's dependent unmarried child under age 21.

The plan also must make any new employee of the taxpayer eligible for coverage within 1 month after commencement of his employment.

"(6) COVERAGE CONTINUATION.—Then plan must provide for continuation of coverage under each of the following circumstances:

"(A) Coverage for the employee and his covered dependents must be continued for at least 1 month during a layoff or labor dispute, with no increase in required contributions and with provisions for continuation for up to 11 more months during such layoff or labor dispute, subject to the employee not being required to contribute at a rate more than the premium then required under the plan for the coverage of the employee and his covered dependents for such period.

"(B) Upon termination of employment, other than as a result of death of the employee, the employee must be permitted to have coverage under the plan continued for himself and for his covered dependents for 3 months, subject to payment at the date of termination of employment of the premium then required under the plan for such 3-month period.

"(C) Upon the death of an employee, his covered dependents must be permitted to have coverage under the plan continued for 3 months, subject to payment, within 15 days following the date of death, of the premium then required under the plan for such 3-month period.

(D) During an employee's absence due to illness or injury, coverage for the employee and his covered dependents must be permitted to continue for up to 24 months from the beginning of such absence. The employee must not be required to contribute more for such continued coverage than he would have contributed had he remained an active employee.

"(E) Coverage for an employee's dependent unmarried child must be permitted to continue until the child's twenty-first birthday, provided the child was covered under the plan prior to attaining age 19, became totally disabled prior to that age, and remains so disabled. The employee must not be required to contribute more for such coverage than would have been required were the child a dependent under age 19.

"(F) Any employee or dependent entitled to continuation of coverage under any of the above subparagraphs at a time when the employer changes his plan and who would thereby lose his continuation of coverage, must be eligible under any successor plan for not less than the continuation of the coverage that would have been required to be continued had the prior plan remained unchanged.

"(G) For purposes of this paragraph, a "covered dependent" is any individual, other than the employee, who by reason of his relationship to the employee was covered as a dependent under the plan just prior to the event described in subparagraph (A), (B), (C), or (D) above. A child born after the event described in subparagraph (A), (B), (C), or (D) but before the end of the continuation period so specified, shall be deemed a covered dependent. Coverage for a covered dependent shall not be required to be continued beyond the date the dependent would have ceased to be eligible for coverage as a dependent if the event described in subparagraph (A), (B), (C), or (D) above had not occurred.

"(H) Notwithstanding subparagraphs (A), (B), (C), and (D), coverage need not be continued for a covered individual beyond the date such individual first becomes eligible for benefits under title XVIII of the Social Security Act.

"(7) COORDINATION OF BENEFITS PROVI-

SION.—The plan must include a provision identical with or substantially similar to the suggested model group antiduplication provision contained in exhibit B of the first report of the industry task force on coordination of benefits attached to the minutes of the E–7 Subcommittee to Study Benefits and Coordination of Accident and Health Insurance of the National Association of Insurance Commissioners as set forth in volume II of the 1970 proceedings of the National Association of Insurance Commissioners.

"(8) EMPLOYEE ELECTION FOR COVERAGE BY APPROVED HEALTH MAINTENANCE ORGANIZATION.—The plan must permit any employee required to be made eligible for coverage thereunder to elect instead to apply for coverage from any approved health maintenance organization (as defined in subsection (d)(5)) and to have the employer pay toward the cost of coverage by such organization an amount equal to the amount the employer would pay toward the cost of coverage of such employee under the employer's plan. Such election shall be required to be permitted in respect of any particular approved health maintenance organization only if—

"(A) 10 or more eligible employees of the employer so elect and are accepted by such organization, and

"(B) the employer has 50 or more employees who are eligible under paragraph 5(A) for coverage under the employer's plan.

"(9) EMPLOYEE CONTRIBUTIONS.—The plan may require employee contribution but in no instance shall the contribution exceed 35 percent of total cost and after July 1, 1975 employee contribution shall not exceed 25 percent of total cost.

"(10) OPTIONAL PROVISIONS.—The plan shall not be treated as failing to meet the requirements of this subsection by reason of the inclusion therein of any one or more of the following optional provisions:

"(A) DEDUCTIBLE.—The plan may require a deductible (in addition to the authorized copayments) which may apply before benefits for some or all types of health care expenses are payable. The amount of the deductible may not be greater when a service is rendered on an ambulatory basis than when that service is rendered on an inpatient basis in a hospital or other health care institution. With respect to the expenses for which Minimum Standard Healthcare Benefits must be provided in any calendar year pursuant to paragraph (4), there shall be a maximum limit on the aggregate of the deductibles for that year for the employee and all covered members of his family, which shall in no event exceed $100.

"(B) COPAYMENTS.—In lieu of the copayment amounts prescribed under section 213(h)(1)(A) in the Table of Minimum Standard Healthcare Benefits, the plan may require copayments for health care expenses in excess of any required deductible in an amount not to exceed 20 percent of such expenses, except where a higher percentage copayment for a given benefit category is provided for in such Table of Minimum Standard Healthcare Benefits.

"(C) ADDITIONAL BENEFITS AND COVERAGE.—The plan may provide any benefits for medical care in addition to those required under the Table of Minimum Standard Healthcare Benefits and may also cover any individual in addition to the individuals required under paragraph (5) to be made eligible for coverage.

"(D) EMPLOYEE CONTRIBUTIONS.—The plan may require employee contributions toward its cost.

"(d) DEFINITIONS.—For purposes of this section—

"(1) EMPLOYEE.—The term 'employee' shall have the meaning prescribed by section 3121(d).

"(2) MEDICAL CARE.—The term 'medical care' shall have the meaning prescribed by paragraph (1), as limited and modified by paragraphs (2) and (3) of section 213(e).

"(3) DEPENDENT.—The term 'dependent' as used in this section in reference to a dependent of an employee means an individual over half of whose support, for the calendar year in which the taxable year of such employee begins, was received from such employee.

"(4) PLAN OF EMPLOYEE HEALTH CARE BENEFITS.—The phrase 'plan of employee health care benefits' as used in subsection (c) includes—

"(A) a contract or contracts of insurance (whether one or more group contracts or a group of individual contracts covering medical care for employees);

"(B) any uninsured arrangement established by an employer to provide medical care for employees;

"(C) an arrangement to secure medical care for employees from any approved health maintenance organization; and

"(D) any combination of (A), (B), or (C) above.

"(5) APPROVED HEALTH MAINTENANCE ORGANIZATION.—The term 'approved health maintenance organization' shall have the meaning prescribed by section 2015(d) of title XX of the Social Security Act."

(b) CONFORMING CLERICAL AMENDMENTS.—

(1) Section 162(h) of the Internal Revenue Code of 1954 (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(3) For limitation on employer's deduction for employee health care, see section 280."

(2) Section 404 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(g) CROSS REFERENCE.—

"For limitation on employer's deduction for employee health care, see section 280."

(3) Section 212 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following cross reference:

"CROSS REFERENCE.—

"For limitation on employer's deduction for employee health care, see section 280."

(4) The table of sections for part IX of subchapter B of chapter I of subtitle A of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"Sec. 280. Employer's Deduction for Expenditures for Employee Health Care."

(c) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1972.

(2) CERTAIN COLLECTIVELY BARGAINED PLANS.—In the case of any plan providing benefits for medical care of employees which was established by an employer taxpayer pursuant to an agreement which resulted from collective bargaining between the employer and representatives of his employees and which has not expired at the time specified in paragraph (1), the amendments made by this section shall not apply to such employer taxpayer until the first taxable year beginning on or after the date such agreement first expires or the date 3 years after the time specified in paragraph (1), whichever such date occurs first.

SUBTITLE D—QUALIFIED INDIVIDUAL HEALTHCARE PLANS

SEC. 141. INDIVIDUAL HEALTH CARE PLANS

(a) INDIVIDUAL'S UNLIMITED DEDUCTION FOR EXPENSES FOR QUALIFIED HEALTHCARE PLANS.—Section 213(a)(2) (relating to individual's deduction for medical expense insurance) of the Internal Revenue Code of 1954 is amended to read as follows:

"(2) either—

"(A) an amount (not in excess of $150) equal to one-half of the expenses paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents (as defined in section 152); or

"(B) an amount (not in excess of $700) equal to all the expense paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents (as defined in section 152) to the extent such expense is paid by the taxpayer—

"(i) for the cost of a Qualified Individual Healthcare Plan (as defined in subsection (g));

"(ii) as a contribution toward the cost of a Qualified Employee Healthcare Plan (as defined in section 280(c));

"(iii) as a contribution toward the cost of a Qualified State Healthcare Plan (as defined in section 2002 of title XX of the Social Security Act); or

"(iv) for or toward the cost of any combination of two or more plans of such insurance, but only if all such plans in combination supply at least the Minimum Standard Healthcare Benefits then required for qualification as a plan described in subdivision (i) or (ii) above and only if each such plan standing alone either does qualify under subdivision (i) or (ii) above, or fails so to qualify solely by reason of its failure to provide all the Minimum Standard Healthcare Benefits then required."

(b) DEFINITION OF QUALIFIED INDIVIDUAL HEALTHCARE PLAN.—Section 213 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(g) QUALIFIED INDIVIDUAL HEALTHCARE PLAN DEFINED.—For purposes of this title, the term 'Qualified Individual Healthcare Plan' means an insurance contract which covers medical care referred to in subparagraphs (A) and (B) of subsection (e)(1) and which satisfies all of the following requirements:

"(1) MINIMUM STANDARD HEALTHCARE BENEFIT PRIORITIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the insurance contract must provide at least the Minimum Standard Healthcare Benefits (described in subsection (h)) in accordance with the following schedule:

"(i) Priority I benefits after December 31, 1972;

"(ii) Priority I and II benefits after December 31, 1975; and

"(iii) Priority I, II, and III benefits after December 31, 1978;

"(B) PRESIDENTIAL DEFERRAL OF SCHEDULE FOR PHASE-IN OF BENEFITS.—The President of the United States, by Executive order issued by him pursuant to the provisions of subsection (h), may defer the date otherwise scheduled under subparagraph (A)(ii) or (A)(iii) for phase-in of any priority II or priority III benefit, but only if such Executive order defers on like terms the date otherwise scheduled for phase-in of such benefit for purposes of Qualified Employee Health Care Plans (described in section 280(c)).

"(2) POLICY REQUIREMENTS.—The insurance contract must contain provisions—

"(A) which obligate the insurer to renew the policy until at least the date on which the person to whom the policy was issued first becomes eligible for coverage under title XVIII of the Social Security Act, but which also reserve to the insurer the right to adjust premium rates by classes in accordance with its experience under the type of policy involved;

"(B) which enable the person to whom the policy was issued to convert the policy to another policy so as to secure priority II and priority III benefits at such times as those benefits are required to meet the requirements of paragraph (1); and

"(C) which, upon the death of the person to whom the policy was issued, permits every other individual then covered under the policy to elect (within such period as shall be specified in the policy) to continue his coverage (under the same or a different policy) until such time as he would have ceased to

be entitled to coverage had the person to whom the policy was issued lived.

"(3) OPTIONAL PROVISIONS.—An insurance contract shall not be treated as failing to meet the requirements of this subsection by reason of the inclusion therein of any one or more of the following optinal features:

"(A) INSURANCE WITH OTHER INSURERS.—The policy may contain a provision coordinating its benefits with any other policy if such provision is approved by the appropriate regulatory authority of the State of issue.

"(B) DEDUCTIBLES.—The policy may require the covered individual to pay a deductible before benefits or some or all types of health care expenses are payable under the plan. The amount of the deductible may not be greater when a service rendered on an ambulatory basis than when that service is rendered on an inpatient basis in a hospital or other health care institution.

"(C) CO-PAYMENTS.—In lieu of the co-payment amounts described under subsection (h) in the Table of Minimum Standard Healthcare Benefits, the policy may require co-payments for expenses in excess of any required deductible, in an amount not to exceed 20 percent of covered expenses, except where a higher percentage co-payment for a given benefit expense category is provided for under the Minimum Standard Healthcare Benefits.

"(D) ADDITIONAL BENEFITS.—The policy (or the combination of policies specified in subsection (a)(2)(B)(w)) may provide any benefits for medical care in addition to those required under the Table of Minimum Standard Healthcare Benefits."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1972.

SEC. 142. PROCEDURE FOR RULINGS ON QUALIFICATION OF EMPLOYEE AND INDIVIDUAL HEALTH CARE PLANS

In exercise of the power to issue rulings which is vested in him under section 7805 of the Internal Revenue Code of 1954, the Secretary of the Treasury (or his delegate) may accept the determination of the State insurance regulatory authority that a plan of health care benefits filed with and approved by such authority is a plan satisfying all requirements for qualification either as a Qualified Employee Healthcare Plan (as defined in section 280(c) of the Internal Revenue Code of 1954) or as Qualified Individual Healthcare Plan (as defined in section 213(g) of the Internal Revenue Code of 1954).

SEC. 143. REGULATIONS

Any regulations promulgated by the Secretary of the Treasury (or his delegate) with regard to amendments of the Internal Revenue Code of 1954 made by subtitles A, B, or C of this title shall be promulgated in final form not less than 120 days prior to the first day of the calendar year during which they will apply. Such regulations shall be effective only if (i) promulgated in final form within the time prescribed in the preceding sentence, and (ii) notice of such regulation in proposed form and of opportunity for public hearing thereon shall have been published not less than sixty days prior to the date of promulgation thereof in final form.

SUBTITLE E—GRANTS TO STATES FOR QUALIFIED STATE HEALTHCARE PLANS FOR THE NEEDY AND UNINSURABLE

SEC. 151. GRANTS TO STATES FOR QUALIFIED STATE HEALTHCARE PLANS.

The Social Security Act is amended by adding after title XIX the following new title:

"TITLE XX—GRANTS TO STATES FOR QUALIFIED STATE HEALTHCARE PLANS

"Sec. 2001. Appropriations.
"Sec. 2002. Qualified State Healthcare Plan definition.
"Sec. 2003. Eligibility for enrollment.
"Sec. 2004. Determination and review of premium rates.
"Sec. 2005. Procedure for enrollment.
"Sec. 2006. Individual and family contributions and State premium payments.
"Sec. 2007. Extension and termination of coverage.
"Sec. 2008. Operation of the Qualified State Healthcare Benefits Pool.
"Sec. 2009. Furnishing of information by other agencies.
"Sec. 2010. Provisions and conditions for Federal appropriations.
"Sec. 2011. Eligibility of those now covered under certain State or Federal programs.
"Sec. 2012. Premium taxes.
"Sec. 2013. Definitions.
"Sec. 2014. Regulations.

"APPROPRIATIONS

"SEC. 2001. For the purpose of providing comprehensive health care insurance to needy individuals and families in a manner which will enhance personal dignity, and to make available comprehensive health care insurance coverage to individuals who are uninsurable, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out this title. The sums made available under this section shall be used for making payments pursuant to Qualified State Healthcare Plans which have been approved by the Secretary of Health, Education, and Welfare.

"QUALIFIED STATE HEALTHCARE PLAN DEFINITION

"General Rule

"SEC. 2002. (a) A Qualified State Healthcare Plan shall be a contract or other agreement between a State and an administering carrier (as defined in section 2015(d)), and shall pay to practitioners, health care institutions and other providers, on behalf of the individuals and families required under section 2003 to be made eligible therefor, the Minimum Standard Healthcare Benefits (described in section 213(h) of the Internal Revenue Code of 1954) in accordance with the following schedule:

"(1) Priority I and II benefits for policy years beginning before July 1, 1976, and

"(2) Priority I, II, and III benefits for policy years beginning after June 30, 1976, except as provided in subsection (b).

"Presidential Power To Defer Priority III Benefits

"(b) If the President of the United States, by Executive order issued by him pursuant to section 213(h) of the Internal Revenue Code of 1954, defers the date otherwise scheduled under subsection (a)(2) for phase-in of Priority III benefits, such benefits shall not be required to be provided under Qualified State Healthcare Plans until such date as shall be fixed by the President for phase-in of Priority III benefits.

"Option To Elect Coverage Under an Approved Health Maintenance Organization

"(c) An individual or family eligible for enrollment in the Qualified State Healthcare Plan under section 2003 may, upon written request, submitted to the administering carrier with his enrollment application, elect coverage, if available, under an arrangement between the administering carrier and an approved health maintenance organization (as defined in section 2013(e)), in lieu of coverage under the Qualified State Healthcare Plan: *Provided, however,* That the per capita charges made to the State through the administering carrier for such alternative coverage shall not exceed the premiums then applicable for that risk category for the current policy year for enrollment in the Qualified State Healthcare Plan, as determined pursuant to section 2004(b).

"Reinsurance Condition

"(d) The contract risk under a Qualified State Healthcare Plan shall be reinsured, through the Qualified State Healthcare Benefits Pool described in section 2008, by all carriers (profit and nonprofit) licensed in or otherwise authorized by the State to issue coverage for one or more items of health care, by all health maintenance organizations doing business in the State, and by all other persons in the State who provide uninsured plans.

"Limitation and Exceptions

"(e)(1) The copayments, specified in the table of Minimum Standard Healthcare Benefits (described in section 213(h) of the Internal Revenue Code of 1954) shall be limited as follows:

"(A) the aggregate copayments per policy year for a single individual described in section 2003(a) shall be limited to 6 per centum of the excess over $2,000 of the individual's adjusted gross income (as defined in section 2003(a)(2)), or $30, whichever is the larger;

"(B) the aggregate copayments per policy year for a family of two described in section 2003(a) shall be limited to 6 per centum of the excess over $3,000 of the family's adjusted gross income (as defined in section 2003(a)(2)), or $30, whichever is the larger; or

"(C) the aggregate copayments for a policy year for a family of three or more described in section 2003(a) shall be limited to 6 per centum of the excess over $4,000 of the family's adjusted gross income (as defined in section 2003(a)(2)), or $30, whichever is the larger.

"(2)(A) No charge for a benefit otherwise described by this section, other than charges by a health care institution, shall be reimbursed to the extent that it exceeds a reasonable charge. In determining the reasonable charge for a given health care service there shall be taken into consideration the charge for the service, when rendered under comparable conditions, which is customarily made by the physician, dentist, or other person furnishing such service, but in no event shall the payment be in excess of the prevailing charge in the locality for the service. The prevailing charge in a locality shall be the amount at the seventy-fifth percentile of a low to high distribution of the actual charges made for similar services in the same locality during the preceding calendar year. The prevailing charge shall be recalculated each year by the administering carrier upon the basis of the actual charges during the preceding calendar year and such prevailing charge shall be in effect from July 1 of the current year until June 30 of the succeeding year. When a service is rendered a relatively small number of times in a locality in a given year, the prevailing charge for that service shall be determined by the administering carrier in accordance with regulations specified by the Secretary for this purpose.

"(B) No charge for a benefit otherwise described by this section shall be reimbursed to the extent that it is for health care determined not to be necessary according to professionally established guidelines. Payment for health care services beyond such guidelines may be made only if approved, after review, by an appropriate health services review organization, or in the absence of such organization by the health professional staff of the administering carrier of the Qualified State Healthcare Plan.

"(C) No charge for care rendered in any health care institution shall be reimbursed if it is determined, in accordance with and subject to the provisions of section 2008, that the health care institution is not complying with the prospective rate approval conditions established by section 2008.

"(3) No charge for a benefit otherwise described by this section shall be reimbursed to the extent it is a proper reimbursement

under any other insurance plan providing health care benefits, including, but not limited to, benefits provided under title XVIII of the Social Security Act.

"ELIGIBILITY FOR ENROLLMENT

"Needy Individuals and Families

SEC. 2003. (a) Every individual or family (as defined in subsection (c))—

"(1) who is a resident of the State;

"(2) whose individual (combined for a family) adjusted gross income (as defined by section 62 of the Internal Revenue Code of 1954) for his last taxable year preceding the date on which he makes an application to enroll in the Qualified State Healthcare Plan was either—

"(A) less than—

"(i) $3,000 for a single individual,

"(ii) $4,500 for a family of two, or

"(iii) $6,000 for a family of three or more; or

"(B) was greater than the applicable amount in subparagraph (A) and the individual or family is a Federal cash recipient as defined in section 2013(i);

"(3) who is not eligible to enroll in a Qualified Employee Healthcare Plan (as described by section 280(c) of the Internal Revenue Code of 1954) on the date on which he makes an application to participate in the Qualified State Healthcare Plan; and

"(4) who, if eligible to enroll in the supplementary medical insurance program for the aged described in part B of title XVIII of the Social Security Act, is, in fact, enrolled in said insurance program—shall, in accordance with, and subject to the other provisions of this title, be eligible to enroll in the Qualified State Healthcare Plan.

"Uninsurable Individuals

"(b) Every individual—

"(1) who is a resident of the State;

"(2) who is not eligible to enroll in a Qualified State Healthcare Plan because he fails to meet the conditions specified in subsection (a)(2);

"(3) who is not eligible to enroll in the insurance program described in part B of title XVIII of the Social Security Act;

"(4) who meets the condition specified in subsection (a)(3); and

"(5)(A) who has made an application, to three carriers licensed to issue individual health care insurance in the State, at least one of which is licensed to issue individual health care insurance in all the 50 States and the District of Columbia, for an individual health care insurance policy providing benefits equivalent to the Minimum Standard Healthcare Benefits described in section 2002(a), and each such carrier either—

"(i) refused to issue such a policy, or

"(ii) offered such a policy only for premium rate greater than 200 per centum of the current premium rate being charged to the State for a single individual enrolled in the Qualified State Healthcare Plan, or

"(B) who became disabled while insured under a Qualified Employee Healthcare Plan, has been disabled at least 9 months, and whose coverage has continued under a temporary extension of the Qualified Employee Healthcare Plan—

shall, in accordance with and subject to the other provisions of this title, be eligible to enroll in the Qualified State Healthcare Plan during an open enrollment period.

"Definition of Family

"(c) An individual and his spouse (not legally separated under a decree of divorce or of separate maintenance) and each of their dependents (as defined in the introductory clause of section 152(a) of the Internal Revenue Code of 1954), unmarried children who have not attained the age of 21, or an individual and each of his dependents as defined in this subsection, shall be regarded as a family for purposes of this title.

"Rules for Eligibility

"(d) For the purpose of applying the conditions of eligibility under this section, all determinations shall be made on the day application for enrollment for the policy year is made.

"DETERMINATION AND REVIEW OF PREMIUM RATES

"General Rule

"SEC. 2004. (a) The premium rate to be charged under a Qualified State Healthcare Plan for each policy year shall be actuarially established in each State for each of the risk categories—

"(1) single individual,

"(2) family of two, and

"(3) family of three or more.

"Composition of Premium

"(b)(1) The premium rate for a given risk category to be charged for the initial policy year shall be determined by the administering carrier on the basis of the sum of only the following factors—

"(A) the arithmetic average of the separate estimates of incurred claims costs for that risk category for the first policy year filed with the insurance regulatory authority of the State pursuant to requests by such authority to two nondomestic insurance companies licensed to issue health care insurance in the 50 States and the District of Columbia, two domestic insurance companies licensed to issue health care insurance in the State, one domestic nonprofit hospital expense indemnity organization, and one domestic nonprofit medical expense indemnity organization;

"(B) the charge for administration as set for the policy year by the administering carrier; and

"(C) a risk charge equal to 1 per centum of the amount determined in subparagraph (A).

"(2) The premium rate for a given risk category to be charged for each subsequent policy year shall be determined by the administering carrier on the basis of the sum of only the following factors—

"(A) the incurred claim costs for that risk category for the prior policy year;

"(B) an amount equal to any projected increase or decrease in incurred claim costs for that risk category for the policy year;

"(C) an amount, if needed, to repay in full any pool losses (described in subsection 2008(c)) of prior years borne by the reinsurers of the pool and not yet recovered by them;

"(D) the charge for administration as set for the policy year by the administering carrier; and

"(E) a risk charge equal to 1 per centum of the sum of the amounts in subparagraphs (A) and (B).

"Review of the Premium Rates

"(c)(1) The premium rates determined for each State for each policy year pursuant to subsection (b) and the utilization and other assumptions underlying the rates are to be filed by the State with the chief actuary for the Social Security Administration, and if, within ninety days after such filing, the chief actuary determines that the rates are unjustifiably high for the State, he shall recommend to the Secretary a commensurate reduction in the Federal Healthcare Percentage described in section 2010(e). The Secretary, to the extent he concurs in and adopts such recommendation, shall advise the State of the reduction he proposes to promulgate.

"(2) The State may request a hearing within thirty days after receipt of notice of the proposed reduction pursuant to paragraph (1). In such event, the Secretary shall, upon request by the State for a hearing and within thirty days thereof, appoint a hearing board of three actuaries, each of whom shall be a member in good standing of the American Academy of Actuaries, including one actuary who shall be appointed with the concurrence of the Governor of the State, and one actuary who shall be appointed with the concurrence of the administering carrier.

"(3) If a State does not request a hearing, or if the hearing board appointed pursuant to paragraph (2) concurs in the finding that the rates are unjustifiably high, the Secretary shall promulgate the proposed reduction in the Federal Healthcare Percentage, which shall apply throughout the period that the rates on which the hearing was based remain in effect.

"(4) If the hearing board appointed pursuant to paragraph (2) determines that the rates are not unjustifiably high for the State, the Federal Healthcare Percentage shall not be reduced.

"PROCEDURE FOR ENROLLMENT

"General Rule

"SEC. 2005. (a) (1) The appropriate State agency shall enroll each Federal cash recipient, required under section 2003 to be made eligible therefor, in the qualified State Healthcare Plan, and shall file his application with the administering carrier on forms to be provided by the administering carrier.

"(2) All other individuals, or the member of a family who provides the family's chief support, otherwise required under section 2003 to be made eligible therefor, may enroll in a Qualified State Healthcare Plan upon filing an application with the administering carrier on a form to be provided by the administering carrier.

"Information Required of Each Applicant

"(b) Each eligible applicant described in section 2003 shall provide the administering carrier all information and evidence required to make an eligibility determination, and provide or certify any other essential information required under regulations prescribed by the Secretary, including but not limited to—

"(1) certification of his eligibility as a Federal cash recipient;

"(2) certification of his, or his family's adjusted gross income as defined by section 2003(a)(2); and

"(3) certification that he and his applicable family members, if eligible for the supplementary medical insurance program for the aged described in title XVIII of the Social Security Act, are enrolled thereunder; or, if not then eligible, certify that he and his applicable family members who may become eligible during the policy year for the insurance program described in title XVIII will enroll in such program.

"Enrollment Periods

"(c) Applications for enrollment in a Qualified State Healthcare Plan shall only be made and filed during an open enrollment period which shall be the calendar month of April of each year for coverage commencing for the policy year beginning the following July 1, except applications for enrollment—

"(1) shall be made by the appropriate State agency on behalf of an individual or family who establishes (other than during an open enrollment period) that he is a Federal cash recipient eligible for enrollment, but not then enrolled; and shall be filed with the administering carrier by the appropriate State agency within thirty days following the day on which such individual or family establishes eligibility as a Federal cash recipient; or

"(2) may be made by other individuals or families who meet the conditions for eligibility under section 2003(a)—

"(A) if such individual or family was eligible to enroll in a Qualified Employee Healthcare Plan during the latest enrollment period, but prior to the next open enrollment period ceases to be eligible for enrollment in a Qualified Employee Healthcare Plan, and

"(B) if the application is filed with the administering carrier by the individual or family within thirty days following the day on which such individual or family ceased to be eligible for continued enrollment in the Qualified Employee Healthcare Plan.

"Covered periods

"(d)(1) Except as otherwise provided in section 2007 Qualified State Healthcare Plan coverage for individuals and families properly enrolled during an open enrollment period shall commence for the forthcoming policy year beginning July 1, and coverage shall remain in force for the balance of the policy year for each individual who was eligible for enrollment on the day the application for his or his family's enrollment was made.

"(2) Except as otherwise provided in section 2007, Qualified State Healthcare Plan coverage for individuals or families properly enrolled (other than during an open enrollment period) in accordance with subsection (c) shall commence the first day of the third month following the month in which the application of the individual or family was filed with the administering carrier, and coverage shall remain in force for the balance of the policy year for each individual who was eligible for enrollment on the day the application for his or his family's enrollment was made.

"INDIVIDUAL AND FAMILY CONTRIBUTIONS AND STATE PREMIUM PAYMENTS

"Individual and Family Contributions

"SEC. 2006. (a) Individuals and families enrolled in a Qualified State Healthcare Plan shall be required to contribute toward the cost of the plan only as follows:

"(1) Each single individual described in section 2003(a) shall pay to administering carrier a contribution equal to 18 per centum of the excess over $2,000 of the individual's adjusted gross income (as defined in section 2003(a)(2)), reduced (but not below zero) by the total premium, if any, paid for that year by the individual to the Social Security Administration for enrollment in the medical insurance program for the aged described in title XVIII of the Social Security Act.

"(2) Each family of two described in section 2003(a) shall pay to the administering carrier a contribution equal to 18 per centum of the excess over $3,000 of the family's adjusted gross income (as defined in section 2003(a)(2)), reduced (but not below zero) by the combined aggregate premium, if any, paid for that year by the family to the Social Security Administration for enrollment in the medical insurance program for the aged described in title XVIII of the Social Security Act.

"(3) Each family of three or more described in section 2003(a) shall pay to the administering carrier a contribution equal to 18 per centum of the excess over $4,000 of the family's adjusted gross income (as defined in section 2003(a)(2)), reduced (but not below zero) by the combined aggregate premium, if any, paid for that year by the family to the Social Security Adminstration for enrollment in the medical insurance program for the aged described in title XVIII of the Social Security Act.

"(4) Each individual described in section 2003(b) shall pay to the administering carrier a contribution equal to the full premium determined under section 2004 to be applicable for the risk category of a single individual.

"Exceptions

"(b)(1) Each individual or family who enrolls in a qualified State Healthcare Plan during an excepted enrollment period as provided by section 2005(c) shall have his contribution prorated on the basis of the number of months of coverage remaining in the current policy year as at the date coverage commences.

"(2) Each individual or family who, but for this subsection, would be required to make a contribution pursuant to subsection (a), and who has established that he is a Federal cash recipient at the time his application for enrollment in a Qualified State Healthcare Plan was filed, shall not be required to pay such contribution, but the amount of the contribution thus waived nevertheless shall be paid by the State to the administering carrier.

"(3) Each individual or family, who establishes eligibility as a Federal cash recipient during a calendar month subsequent to the calendar month in which his application for enrollment in a Qualified State Healthcare Plan was filed, shall not be required to pay an installment or installments of the contribution for that policy year that fall due on or after the first day of the third calendar month in which the individual or family established eligibility as a Federal cash recipient, but such installment or installments shall nevertheless be paid by the State to the administering carrier.

"State's Share of the Premium

"(c) Each State which has a Qualified State Healthcare Plan shall pay the administering carrier an amount equal to the total premium cost for the policy year less the total amount of contributions actually paid to the administering carrier by the individuals and families as provided for in this section.

"Nonvariability of Contributions and Premiums

"(d) The amount of annual contribution and the amount of annual premium shall be established by family size category on the day application for enrollment was made, and shall not change as a result of a change in family size thereafter.

"Due Date of Contributions and State Premium Payments

"(e)(1) Except as provided in this subsection, any contribution required of an individual or family, or of the State on behalf of a Federal cash recipient, for the forthcoming policy year or the balance of the policy year shall be due and payable in advance of the effective date of that individual's or family's coverage under the Qualified State Healthcare Plan.

"(2) An individual or family who enrolls during an open enrollment period and whose total contribution for a policy year exceeds—

"(A) $40, may elect to pay one-fourth of the contribution in advance of the policy year, and one-fourth prior to the first day of the third, sixth, and ninth months following the first month of the policy year, or

"(B) $120, may elect to pay one-twelfth of the contribution in advance of the policy year, and one-twelfth prior to the first day of each of the eleven months following the first month of the policy year.

"(3) Any individual or family member who qualifies for payment of his contribution in installments in accordance with subsection (e)(2) and who is an employer (as defined in section 3121(d) of the Internal Revenue Code of 1954) may require his employer to make periodic deductions from his wages, and remit each contribution installment to the administering carrier on or before the due date specified in subsection (e)(2).

"(4) The premium payments required to be made by the State in accordance with subsection (c) shall be due in equal monthly installments to the administering carrier prior to the first day of each calendar month. If payment of any installment is not received by the first day of the month it is due, the administering carrier shall not be liable for benefit payments thereafter.

"State Payment of Premiums for Part B Medicare Benefits

"(f) Each State which has a Qualified State Healthcare Plan shall be required to make available, and pay premiums for, medical insurance benefits under title XVIII of the Social Security Act to any individual or family member who is enrolled in that State's Qualified State Healthcare Plan, who is eligible for such supplementary medical insurance benefits and who either:

"(1) has established eligibility as a Federal cash recipient at the time his application for enrollment in the Qualified State Healthcare Plan is made; or

"(2) had individual (combined for a family) adjusted gross income (as defined by section 62 of the Internal Revenue Code of 1954), for the last taxable year preceding the day on which his most recent application for enrollment in the Qualified State Healthcare Plan was made, less than—

"(A) $2,000 for a single individual,

"(B) $3,000 for a family of two, or

"(C) $4,000 for a family of three or more.

Such benefits shall be made available pursuant to an agreement entered into under section 1843 of the Social Security Act, or by reason of the payment of premiums under such title by the appropriate State agency on behalf of the individuals.

"EXTENSION AND TERMINATION OF COVERAGE

"General Rule

"SEC. 2007. (a) Except as provided in subsection (d), subject to timely payment as specified in section 2066(e) of any contribution required under section 2006 by the individual or family and subject to timely payment of the State's share of the premium as specified in section 2006(e), Qualified State Healthcare Plan coverage shall remain in force for the balance of the policy year for each individual who was eligible for enrollment on the day the application for his family's enrollment was made.

"Extended Coverage

"(b) Qualified State Healthcare Plan coverage shall immediately extend to any child born to, or adopted by, any eligible family member subsequent to the day the application for enrollment was made, and shall continue in force until the beginning of the policy year following the next open enrollment period.

"Continued Coverage

"(c) Qualified State Healthcare Plan coverage during the policy year shall not be terminated because an individual who was an eligible family member on the day the application for enrollment was made ceases to be an eligible family member subsequent to the date of application.

"Termination of Coverage

"(d)(1) Qualified State Healthcare Plan coverage shall not commence or shall terminate as of the first day of any month if any contribution due prior to such date pursuant to section 2006(e) has not been paid by such date.

"(2) If Qualified State Healthcare Plan coverage is terminated in accordance with paragraph (1) and a request for reinstatement is made within thirty days following the day coverage terminated, the individual or family will be extended continuous coverage upon payment of the overdue contribution or installment and all remaining installments due during the balance of that policy year plus a reinstatement expense charge of $10.

"(3) If Qualified State Healthcare Plan coverage is terminated in accordance with paragraph (1) and the individual or family fails to request reinstatement as provided for in paragraph (2), the individual or family shall not qualify for the payment of contributions in installments specified in section 2006(e) for the next policy year.

"(4) If a Federal cash recipient described in section 2003(a)(2)(B) ceases to be eligible for public cash assistance after the State has enrolled the individual or family, the State shall so notify the administering carrier within thirty days of such cessation and Qualified State Healthcare Plan coverage shall terminate as of the first day of the

fourth month following the month in which eligibility for public cash assistance ceased.

"OPERATION OF THE QUALIFIED STATE HEALTH-CARE BENEFITS POOL

"General Rule

"SEC. 2008. (a) The Qualified State Healthcare Benefits Pool (hereinafter in this section referred to as the Pool) shall be administered by the carrier administering the Qualified State Healthcare Plan.

"Fiscal Operation

"(b)(1) The premiums collected pursuant to this title 2004, the fees for reinstatement of coveraged described in section 2007(d)(2) and reimbursements for Pool losses described in subsection (c)(2) shall be paid into the Pool.

The Pool shall be available—

"(A) without fiscal year limitation to pay all Qualified State Healthcare Plan benefit claims certified by the administering carrier;

"(B) without fiscal year limitation to pay premiums to approved health maintenance organizations (as defined in section 2013(e));

"(C) to pay the risk charges specified in section 2004(b);

"(D) to repay to Pool reinsurers the losses, if any, specified in section 2004(b)(2)(C);

"(E) to pay the administrative charges of the administering carrier described in section 2004(b); and

"(F) to pay any other charges for which the Pool has a liability.

"(2) The moneys in the Pool shall be invested and re-invested in interest-bearing obligations, which may be sold for the purpose of the Pool. The interest on, and the proceeds from the sale of, such obligations become a part of the Pool.

"Experience Accounting

"(c)(1) At the close of each policy year, an experience accounting for the Pool for the policy year shall be prepared by the administering carrier and submitted to the Secretary, to the State, and to all reinsurers specified in section 2002(d).

"(2)(A) All reinsurers shall participate in any Pool losses in accordance with such formula as the Pool participants may devise with the approval of the State. The aggregate Pool losses for any policy year, to be apportioned among the Pool participants, shall be limited to 6 per centum of the Qualified State Healthcare Plan premiums collected by the Pool for the year. Losses in excess of this limitation shall be borne by the State.

"(B) The State shall collect the uninsured plans' share of the Pool losses, and remit such amount together with the State's payment for its share of the losses to the administering carrier within forty-five days after the experience accounting has been submitted. The other reinsurers shall remit their share of the loss to the administering carrier within thirty-one days after the experience accounting has been submitted.

"(3) If the experience accounting reflects a gain (computed after deduction of the reinsurers' risk charge described in section 2004(b)) for the policy year, the gain shall be retained in the pool and used to minimize future premiums to be paid by the State.

"FURNISHING OF INFORMATION BY OTHER AGENCIES

"General Rule

"SEC. 2009. (a) The head of any Federal or State agency shall furnish such information as the administering carrier needs for purposes of spot auditing eligibility for the Qualified State Healthcare Plan, or verifying other information with respect thereto.

"Carrier's Liability

"(b) A reliance by the administering carrier on information furnished by any Federal or State agency shall relieve the carrier from liability for failure to charge sufficient premiums, overpayment of benefits, or any other erroneous act resulting from the carrier's reliance on such information.

"PROVISIONS AND CONDITIONS FOR FEDERAL APPROPRIATION

"Appropriation for Qualified State Healthcare Plan Premiums

"SEC. 2010. (a) The Secretary shall pay to any State which has a Qualified State Healthcare Plan an amount equal to the product obtained by multiplying the total premiums for the Qualified State Healthcare Plan paid by State to the administering carrier by the Federal Healthcare Percentage defined in subsection (e). In applying the preceding sentence, the amount used as total premiums paid by a State for a Qualified State Healthcare Plan shall not include any portion thereof that is determined by the Secretary to be attributable to benefits provided under the Plan which are in excess of the Minimum Standard Healthcare Benefits then required by section 2002(a) to be provided.

"Appropriation for Qualified State Healthcare Benefits Pool Losses

"(b) The Secretary shall pay to any State which has a Qualified State Healthcare Plan an amount equal to the product obtained by multiplying the excess Pool losses paid by the State to the administering carrier (as provided by section 2010(c)(2)(A)) by the Federal Healthcare Percentage defined in subsection (e). For the purpose of this subsection, the Federal Healthcare Percentage shall be as determined before any reduction thereof provided for under section 2004(c)(3).

"Condition for Payment

"(c) The amounts appropriated by the preceding subsections shall not be paid to the State unless the State has filed with the Secretary sufficient evidence to substantiate the expenditures described by the preceding subsections.

"Payments Under Titles V and XIX Conditioned on State Compliance

"(d) In order for a State to be eligible for Federal appropriations on or after July 1, 1973, pursuant to titles V and XIX of the Social Security Act, it must have in operation a Qualified State Health Care Plan.

"Federal Healthcare Percentage

"(e) The term 'Federal Healthcare Percentage' for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska and Hawaii); except that (1) the Federal Healthcare Percentage shall in no case be less than 70 per centum or more than 90 per centum, and (2) the Federal Healthcare Percentage for Puerto Rico, the Virgin Islands, and Guam shall be 70 per centum. The Secretary shall promulgate the Federal Healthcare Percentage for each State as soon as possible after enactment of this title, which promulgation shall be conclusive for each of the four quarters in the period beginning July 1, 1972, and ending with the close of June 30, 1973. Thereafter, the Federal Healthcare Percentage for any State shall be promulgated in acordance with the provisions of section 1101(a)(8)(B) of title XI of the Social Security Act.

"ELIGIBILITY OF THOSE NOW COVERED UNDER CERTAIN STATE OR FEDERAL PROGRAMS

"Federal Programs

"SEC. 2011. (a) Any class of individuals or families, other than employees of the Federal Government and their families, whose members at the time of enactment of this Act, are receiving all, or substantially all, of their medical care under a Federal program, other than a program pursuant to the Social Security Act, shall not be eligible for coverage under a Qualified State Healthcare Plan unless—

"(1) all members of the class who are resident in the State are enrolled in the Plan;

"(2) the Federal Government pays the premium for supplementary medical insurance benefits under part B of title XVIII of the Social Security Act for all such members of the class as are eligible therefor;

"(3) the Federal Government arranges for the enrollment of such individuals and families in the Qualified State Healthcare Plan and pays the full premium therefor on behalf of such persons without requiring any sharing by the State; and

"(4) the Federal Government agrees to pay the State that proportion of any excess Pool losses, charged to the State pursuant to section 2008(c)(2)(A), which the average number of such persons enrolled in such Plan during the policy year bears to the average number of all persons enrolled in such Plan during that year. In applying section 2010(b), the amount of such payment shall reduce the excess Pool losses to which the Federal Healthcare Percentage would otherwise be applied.

"State Programs

"(b) Any class of individuals or families, other than employees of a State or local government and their families, whose members, at the time of enactment of this Act, are receiving all, or substantially all, of their medical care under a State program of medical care, other than a program pursuant to the Social Security Act, and who are not otherwise eligible for enrollment in the Qualified State Healthcare Plan, shall be eligible for coverage in a Qualified State Healthcare Plan provided—

"(1) all members of the class who are resident in the State are enrolled in the Plan;

"(2) the State pays the premium for supplementary medical insurance under part B of title XVIII of the Social Security Act for all such members of the class as are eligible therefor;

"(3) the State arranges for the enrollment of such individuals and families in the Qualified State Healthcare Plan and pays the full premium therefor on behalf of all such persons; and

"(4) the State agrees to absorb, without any sharing by the Federal Government, that proportion of the excess Pool losses, charged to it pursuant to section 2008(c)(2)(A), which the average number of such persons enrolled in such plan during the policy year bears to the average number of all persons enrolled in such Plan during that year. In applying section 2010(b), such amount shall reduce the excess Pool losses to which the Federal Healthcare Percentage would otherwise be applied.

"PREMIUM TAXES

"SEC. 2012. In order to be eligible for Federal appropriations pursuant to this title, a State (or any political subdivision thereof)—

"(1) may not impose any tax of any kind on or with respect to any premium, benefit, income, or other transaction or occurrence connected with any Qualified State Healthcare Plan or Benefits Pool provided for under this title, and

"DEFINITIONS

"SEC. 2013. As used in this title the following terms shall have the following meanings:

"Health Care

"(a) 'Health care' means the medical care referred to in subparagraphs (A) and (B) of section 213(e)(1) and all of the services and supplies described in section 213(h) of the Internal Revenue Code of 1954.

"Secretary

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

"States

"(c) 'State' shall include each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

"Administering Carrier

"(d) 'Administering carrier' means either:

"(1) a carrier licensed to issue health care insurance in each of the 50 States and the District of Columbia, or

"(2) an assemblage of domestic carriers operating statewide which in the aggregate issue 10 per centum of the total health care insurance issued in the State and operate as one administering unit. The administering carrier for a Qualified State Healthcare Plan shall be designated by the State and approved by the Secretary.

"Approved Health Maintenance Organization

"(e) 'Approved health maintenance organization' means a public or private organization (profit or non-profit) which—

"(1) provides, either directly or through arrangements with others, health care services to enrollees on a per capita prepayment basis;

"(2) provides with respect to such enrollees all of the Minimum Standard Healthcare Benefits specified in section 213(h) of the Internal Revenue Code;

"(3) provides physicians' services directly through physicians who are either employees or partners of such organization or under an arrangement with an organized group or groups of physicians which is or are reimbursed for services primarily on the basis of an aggregate fixed sum or on a per capita basis;

"(4) demonstrates to the satisfaction of the Secretary proof of financial responsibility and proof of a capability to provide either directly or through arrangements with others comprehensive health care services, including institutional services, efficiently, effectively, and economically; and

"(5) has arrangements for assuring that the health care services required by its enrollees are received promptly and appropriately and that the services that are received measure up to quality standards which it establishes in accordance with regulations.

"Policy Year

"(f) 'Policy year' means a period beginning any July 1 and ending the close of the following June 30.

"Carrier

"(g) 'Carrier' means an insurance company, hospital service or hospital expense indemnity organization, a medical service or medical expense indemnity organization, dental service or dental expense indemnity organization or other similar organization providing coverage for one or more types of health care.

"Uninsured Plans

"(h) 'Uninsured plan' means a plan provided by a person (other than a carrier or a health maintenance organization) having an arrangement which has been communicated or described in writing to covered individuals, and which covers at least 26 individuals for at least 26 weeks of the calendar year, and which provides, pays for, or reimburses the whole or any part of the cost of the health care of such individuals, but shall not include the Federal Government with respect to programs established by it.

"Federal Cash Recipient

"(i) 'Federal cash recipient' means an individual or family who has established eligibility for public cash assistance under a program financed in whole or in part by Federal funds.

"REGULATIONS

SEC. 2014. Any regulations promulgated by the Secretary (or his delegate) with regard to this title shall be promulgated in final form not less than nine months prior to the first day of the policy year during which they will apply. Such regulations shall be effective only if (i) promulgated in final form within the time prescribed in the preceding sentence, and (ii) notice of such regulation in proposed form and of opportunity for public hearing thereon shall have been published not less than sixty days prior to the date of promulgation thereof in final form."

SEC. 52. CONFORMING AMENDMENTS TO TITLE V OF THE SOCIAL SECURITY ACT

Section 505(a) of title V of the Social Security Act is amended by deleting the word "and" at the end of paragraph (13), substituting "; and" for the period at the end of paragraph (14), and adding a new paragraph (15) as follows:

"(15) effective upon adoption of a Qualified State Healthcare Plan under title XX of this Act, but in no event later than July 1, 1973, excludes payment of any services covered (or co-payment required) under a Qualified State Healthcare Plan."

SEC. 153. CONFORMING AMENDMENTS TO TITLE XVIII OF THE SOCIAL SECURITY ACT.

Title XVIII of the Society Security Act is amended—

(1) by adding after section 1837(e) the following new subsection:

"(f) In lieu of the limitations provided by subsections (a), (b), (c), and (d), there shall be a general enrollment period during the month of April in each year for individuals who are enrolling for the first time in a Qualified State Healthcare Plan described in title XX of the Social Security Act."; and

(2) by adding after section 1843(h) the following new subsection:

"(i) The Secretary shall, at the request of a State, enter into a modification of an agreement entered into with such State pursuant to subsection (a) under which the covered group described in subsection (b) and specified in such agreement is broadened to include individuals who are described in section 2006(f) of title XX of the Social Security Act."

SEC. 154. CONFORMING AMENDMENTS TO TITLE XIX OF THE SOCIAL SECURITY ACT.

Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"EXCLUSION FROM COVERAGE

"SEC. 1908. Notwithstanding any other provision of this title, no payment may be made under this title (a) for any expenses incurred for items or services (1) which are covered under a Qualified State Healthcare Plan (as defined in title XX), (2) which are incurred after July 1, 1973, and would have been covered under a Qualified State Healthcare Plan had the State adopted such a plan, or (b) for any co-payment required under a Qualified State Healthcare Plan."

SEC. 155. CONFORMING AMENDMENTS REGARDING "REASONABLE COSTS."

Wherever reference is made in titles V, XVIII, and XIX of the Social Security Act to making payments to a provider on the basis of "reasonable costs" or "reasonable charges", with regard to any amount paid after June 30, 1972, that payment shall not be considered reasonable to the extent that it exceeds the amount which would be determined to be reasonable and necessary under section 2002(c)(2) of title XX of the Social Security Act.

SEC. 156. CONFORMING AMENDMENTS TO THE INTERNAL REVENUE CODE.

The Internal Revenue Code of 1954 is amended by striking the period at the end of paragraph (2) in section 115(a) and inserting in lieu threeof "; or" and by adding after paragraph (2) the following new paragraph:

"(3) interest, or any other item of income, derived from any investment by a Qualified State Healthcare Benefits Pool (as defined in section 2008 of title XX of the Social Security Act)."

SEC. 157. CARRIER COMPLIANCE.

Nothing contained in antitrust legislation enacted by the Congress of the United States or by the legislatures of one or more of the several States shall be construed as limiting or in any other way applying to carriers in any activity undertaken in compliance with or in an effort to comply with any provision of title V of this Act.

SEC. 158. EFFECTIVE DATE.

The amendments made by this subtitle shall become effective on the date of enactment of this Act, except that a Qualified State Healthcare Plan provided for under new title XX of the Social Security Act shall not provide benefits before July 1, 1972.

SUBTITLE F—EFFECTIVE DATE

SEC. 161. EFFECTIVE DATE.

Except as otherwise provided in the title, the provisions of this title shall take effect upon the date of enactment of this Act.

TITLE II—HEALTH CARE SYSTEM

SUBTITLE A—STATE HEALTH PLANNING COUNCILS

SEC. 201. STATEMENT OF PURPOSE.

It is the purpose of this subtitle to provide for a State agency to coordinate efforts within each State to ensure that the highest quality of medical care is provided for all residents of such State by establishing a comprehensive State health plan that will serve as a guide to all State health efforts.

SEC. 202. STATE HEALTH PLANNING COUNCIL.

(a) All Federal expenditures made in a State beginning one year after the date of enactment of this Act shall be made to, and through a State Health Planning Council which has been established by such State in accordance with the succeeding provisions of this section.

(b) A State Health Planning Council shall consist of fifteen members of which two members shall be physicians licensed by the appropriate State licensing authority in such State; two members shall represent hospitals; two members shall represent private health insurers; and nine members shall represent the public generally and may not have had any connection for the immediately preceding five years with any organization which deals with any aspect of medical care delivery systems.

(c) Members of a State Health Planning Council shall be appointed by the Governor of such State with the advice and consent of a majority of both houses of the State's legislature (or in those cases where there is but one house, that house of the State legislature). If such advice and consent is not voted upon within the 30 day period following the submission of such nomination to a house of the legislature, such nomination shall be deemed to have been approved.

(d) Each member of the Council shall serve for a term of four years, and shall be eligible for reappointment. Vacancies on the Council shall be filled by appointment in the same manner as the original appointment, except that members appointed to fill a vacancy on the Council shall serve only until the expiration of the term of the member whose vacancy they are filling.

(e) Eight members of the Council shall constitute a quorum.

(f) A Chairman and Vice-Chairman of the Council shall be selected by the members of the Council from among its members.

(g) Each member of the Council shall be paid $25,000 annually. The Federal share of such salary shall be seventy-five percent, with the State paying the remaining twenty-five percent.

(h) The Council is authorized to employ such personnel as it deems necessary to carry out its responsibilities under this subtitle. The Secretary of the Treasury is authorized

to pay each quarter an amount equal to seventy-five percent of the reasonable amounts expended by the State during such quarter for the proper and efficient administration of the Council.

SEC. 203. FUNCTIONS, POWERS, AND DUTIES OF STATE HEALTH PLANNING COUNCILS.

A State health planning council shall—

(1) Receive, expend, and in every way administer all Federal money expended in such State (after one year from the date of enactment of this Act) for health facilities including construction equipment or health care.

(2) Within 2 years after the date of enactment of this Act, establish a comprehensive statewide health plan to serve as a guide to all future State efforts to improve the quality of health care within such State.

(3) Approve or disapprove the use of Federal or State funds for the construction of any building or facility to be used with respect to health care.

(4) Certify all health care facilities and, from time to time, review such certification. A health care facility not certified by the Council shall not be eligible to receive any Federal or State assistance or be utilized in fulfillment of minimal health care benefits prescribed under subtitle A of title I of this Act.

(5) Establish a schedule of rates according to which (a) hospitals, extended care facilities, or home health agencies (herein collectively referred to as "health care institutions"), (b) licensed physicians and other licensed medical personnel shall be reimbursed for services rendered, or supplies furnished, in the operation of a qualified State, individual, or employees, health care plan.

(6) Review budgets and proposed schedule of rates of the health care institutions in such State in order to establish the schedule of rates under paragraph (5). Once each year, every health care institution in such State shall file its budget and proposed rate schedule with the Council. The Council may approve the use of a single charge for all of a group of services commonly rendered a class of patients, or a single all-inclusive daily charge for all inpatient services of the health care institution. Filed rates shall be deemed approved unless disapproved by the Council within 60 days after filing.

(7) In reviewing the proposed schedule of rates of health care institutions in such State, require at least the following standards of each such institution—

(A) (i) an active review committee of qualified physicians and other personnel that effectively determines whether the services rendered are of good quality, needed for the proper treatment of the patient, and provided only as long as necessary within the health care institution; and

(ii) management that takes effective and prompt action with respect to adverse findings;

(B) utilization of a standard system of accounting and cost finding established by the Council;

(C) utilization of the approved charges for all patients; and

(D) a budget of its expenses for the fiscal years, using the approved standard system of accounting and cost finding, and established charges for services reasonably related to the cost of efficient production of such services.

The Council shall also take into consideration economic factors in the health care institution's geographical area, costs of comparable institutions providing comparable services, capital requirements, and the need for incentives to improve service and institute economies which might be secured from the sharing of joint services with other health care institutions.

(8) In reviewing that portion of a health care institution's charges which results from financing costs and depreciation relating to prior capital expenditures, accept the determination, if any, of the appropriate comprehensive health planning agency (as defined in section 2 of the Public Health Service Act) that the construction of such facility was consistent with the health needs of the area.

(9) If the budget submitted by a health care institution reveals significant operating inefficiencies, or if the proposed charges otherwise appear to be unjustifiably high, disapprove the proposed charges. If the proposed charges are disapproved, the affected health care institution may request consideration of the Executive Council of Health Advisors constituted under subtitle B of this title. Upon receipt of such request, the Advisory Council shall hold a hearing at which the interested parties may appear to present the facts which support the Council's decision and the facts which support the affected health care institution's position. Following such hearing the Advisory Council shall thereupon render a final decision.

(10) By regulation, ensure that all basic health insurance plans in effect in the State offer at least the minimal benefits (as defined in subtitle A of title I of this Act). Such regulations shall also ensure that all supplemental health insurance plans in effect in such State do not include any benefits covered in the minimal benefits plan.

(11) To secure annually from licensed health insurance carriers, doing business in such State, detailed records of their operations during the year within the State, based on the audit form provided by the Executive Council of Health Advisors.

(12) Conduct a thorough examination of such audit forms to ensure that the profits of each health insurance carrier are within the limits established by the Executive Council of Health Advisors. If such profits are found to exceed such limits the Council shall require such insuror to reduce the premium for a minimum benefits package by an amount which should be sufficient to bring profits within such limits. Failure to comply with such an order shall be cause for forfeiture of the license to do business in such State of such insuror.

(13) Be allowed to enter into any interstate, or intrastate agreement or contract with any provider of health care to further the attainment of quality health care.

(14) According to the guidelines established by the Executive Council of Health Advisors, report annually to said Council on the condition of health care within such State.

SUBTITLE B—EXECUTIVE HEALTH ADVISORY COUNCIL

SEC. 212. COUNCIL OF HEALTH POLICY ADVISERS

There is created in the Executive Office of the President a Council of Health Policy Advisers (hereinafter referred to as the "Advisory Council"). The Advisory Council shall be composed of twelve members who shall be appointed by the President to serve four-year terms, by and with the advice and consent of the Senate. The President shall designate one of the members of the Advisory Council to serve as Chairman. At least six of the members shall be selected from among persons who have had no connection, during the immediately preceding five years, with any organization or entity which deals with any aspect of the health care industry.

SEC. 213. RESPONSIBILITIES OF COUNCIL.

(a) It shall be the duty and function of the Advisory Council—

(1) To assist and advise the President in the preparation of a national health report.

(2) To review and appraise the health programs and activities of the Federal Government in the light of the policy set forth in this Act for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations with respect thereto.

(3) To develop and recommend procedures for the interagency coordination of Federal health programs, to propose interagency consolidations of programs and eliminations of programs to assure efficient, effective, and economic operation of all Federal health programs and to avoid waste and duplication.

(4) To develop and recommend goals for a national policy to foster and promote the improvement of the organization, financing, delivery, and quality of the Nation's health care.

(5) To conduct studies, survey, research, and analyses relating to health care in the Nation.

(6) To conduct a continuous evaluation of policies and programs related to the Nation's health care and make recommendations for the revision, expansion, and improvement of such policies and programs, including the assignment of priorities to the implementation of such recommendations in accordance with their relative urgency or desirability.

(7) To develop and recommend measures designed to assure the provision of adequate manpower, services, and facilities for the Nation's health care, including the mobilization, allocation, utilization, and retention of such manpower, services, and facilities.

(8) To develop and recommend guidelines for the allocation of funds for health care designed to furnish all citizens equal access to quality health care.

(9) To make and furnish such studies, reports thereon, and recommendations with respect to matters of health care policy and legislation as the President may request.

(10) To submit to the Congress an annual report not later than April 1 of each year on the nationwide aspects of health care delivery systems based on a detailed study of the reports of each State Health Planning Council.

(11) To establish guidelines to be used by the State Health Planning Councils in the writing of their annual reports.

(12) To construct uniform audit forms to be used by private and public health insurance carriers in making their reports to the State Health Planning Councils. The uniform audit form shall include all expenses of such carrier and the income of such carrier from all sources, including but not restricted to income earned on loss reserve, earnings on premiums, capital losses and gains, and cash float, as well as other information the Advisory Council deems appropriate.

(13) To establish for public and private health insurance carriers reasonable profit criteria.

(14) To establish within 5 years after the date of enactment of this Act, a national certification procedure for all medical personnel to be administered through the State Health Planning Councils.

(15) To recommend appropriate legislation with respect to the creation of a Federal corporation, similar to that provided for banking institutions which will guarantee the financial solvency of such insurance carriers.

SEC. 214. COMPENSATION OF MEMBERS

Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).

TITLE III—PROVISIONS TO INCREASE THE SUPPLY AND IMPROVE THE DISTRIBUTION OF HEALTH CARE PERSONNEL

SEC. 301. STUDENT LOANS FOR TRAINING IN THE HEALTH PROFESSIONS AND NURSING.

(a) STUDENT LOANS FOR TRAINING IN THE HEALTH PROFESSIONS.—Subsection (a) of sec-

tion 741 of the Public Health Service Act is amended to read as follows:

"(a) In the case of any student, the total of the loans from a loan fund established under this part for any academic year (or its equivalent, as determined under regulations of the Secretary) may not exceed the full cost of tuition and fees, and reasonable expenditures for supplies, books, room and board, and other related costs as determined in accordance with regulations. In the granting of such loans, a school shall give preference to persons who enter as first-year students after June 30, 1971."

(b) CANCELLATION OF STUDENT LOANS.—Subsection (f) of such section is amended to read as follows:

"(f) Where any person who obtained one or more loans from a loan fund established under this part—

"(1) engages in the practice of medicine, dentistry, optometry, or osteopathy in an area in a State determined by the Secretary, upon recommendation by the appropriate State comprehensive health planning agency (designated or established pursuant to section 314(a)(2)(A) of the Public Health Service Act), in accordance with regulations provided by the Secretary, to have a shortage of and need for physicians, optometrists, or dentists; and

"(2) the appropriate State comprehensive health planning agency certifies to the Secretary in such form and at such times as the Secretary may prescribe that such practice helps to meet the shortage of and need for physicians, optometrists, or dentists in the area where the practice occurs; then 20 percent of the total of such loans, plus accrued interest on such amount, which are unpaid as of the date that such practice begins, shall be canceled thereafter for each year of such practice, up to a total of 100 percent of such total, plus accrued interest thereon."

(c) AUTHORIZATION OF APPROPRIATIONS.—Subsection (a) of section 742 of such Act is amended by—

(1) deleting the words "and $35,000,000 each for the fiscal year ending June 30, 1970, and the next fiscal year" in the first sentence and adding the following "$35,000,000 for the fiscal year ending June 30, 1970, $50,000,000 for the fiscal year ending June 30, 1971, $70,000,000 for the fiscal year ending June 30, 1972, and $100,000,000 each for the fiscal year ending June 30, 1973, and the two succeeding fiscal years."; and

(2) striking out "1972" in the third sentence and inserting in lieu thereof "1976" and striking out "1971" in the same sentence and inserting in lieu thereof "1975."

(d) CONFORMING AMENDMENT.—Section 743 of such Act is amended by striking out "1974" wherever it appears therein and inserting in lieu thereof "1978".

(e) STUDENT LOANS FOR NURSE TRAINING.—Subsection (a) of section 823 of such Act is amended to read as follows:

"(a) In the case of any student, the total of the loans for any academic year (or its equivalent, as determined under regulations of the Secretary) made by schools of nursing from loan funds established pursuant to agreements under this part may not exceed the full cost of tuition and fees, and reasonable expenditures for supplies, books, room and board, and other related costs as determined in accordance with regulations. In the granting of such loans, a school shall give preference to licensed practical nurses and to persons who enter as first-year students after June 30, 1971."

(f) CANCELLATION OF NURSING STUDENT LOANS.—Subsection (b)(3) of such section is amended to read as follows:

"(3) not to exceed 50 percent of any such loan (plus interest) shall be canceled for full-time employment as a professional nurse (including teaching in any of the fields of nurse training and service as an administrator, supervisor, or consultant in any of the fields of nursing) in any public or nonprofit private institution or agency (including comprehensive ambulatory health care centers), at the rate of 20 percent of the amount of such loan plus interest thereon, which was unpaid on the first day of such service, for each complete year of such service, except that such rate shall be 33⅓ percent for each complete year of service as a professional nurse in any area in a State determined by the Secretary, upon recommendation by the appropriate State comprehensive health planning agency (designated or established pursuant to section 314(a)(2)(A) of this Act), in accordance with regulations of the Secretary, to have a substantial shortage of such nurses, and for the purpose of any cancellation at such higher rate, an amount equal to an additional 50 percent of the total amount of such loans plus interest may be cancelled;".

(g) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 824 of such Act is amended by striking everything after "1970" and adding the following: "$25,000,000 for the fiscal year ending June 30, 1971, $50,000,000 for the fiscal year ending June 30, 1972, and $75,000,000 each for the fiscal year ending June 30, 1973, and the two succeeding fiscal years, and such sums for the fiscal year ending June 30, 1976, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan for any academic year ending before July 1, 1975, to continue or complete their education.".

(h) CONFORMING AMENDMENT.—Section 826 of such Act is amended by striking out "1974" wherever it appears therein and inserting in lieu thereof "1978".

SEC. 302. SCHOLARSHIP GRANTS AND STUDENT LOANS FOR TRAINING IN THE ALLIED HEALTH PROFESSIONS.

(a) RECOMMENDATIONS OF COUNCIL OF HEALTH POLICY ADVISERS.—Subsection (a) of section 794B of the Public Health Service Act is amended by adding the following after the word "prescribe": ", with due regard to any relevant recommendations of the Council of Health Policy Advisers established pursuant to title II of the Comprehensive Health Care Act of 1971".

(b) SCHOLARSHIP GRANTS FOR TRAINING IN THE ALLIED HEALTH PROFESSIONS.—Subsection (d) of such section is amended to read as follows:

"(d) Any such scholarship awarded from grants under subsection (a) to any individual for any year shall cover such portion of the student's tuition, fees, books, equipment, and living expenses as the agency, institution, or organization making the award determines, in accordance with regulations provided by the Secretary, the student needs for such year on the basis of his requirements and financial resources."

(c) AUTHORIZATION OF APPROPRIATIONS.—Subsection (f) of such section is amended to read as follows:

"(f) For the purpose of carrying out the provisions of this section there is authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971, $30,000,000 for the fiscal year ending June 30, 1972, and $50,000,000 each for the fiscal year ending June 30, 1973, and the two succeeding fiscal years."

(d) STUDENT LOANS FOR TRAINING IN THE ALLIED HEALTH PROFESSIONS.—Subsection (b)(1) of section 794D of the Public Health Services Act is amended to read as follows:

"(b)(1) In the case of any student, the total of loans from a loan fund established under this section for any academic year (or its equivalent, as determined under regulations of the Secretary) may not exceed the full cost of tuition and fees, and reasonable expenditures for supplies, books, room and board, and other related costs as determined in accordance with regulations. In the granting of such loans, the agency, institution, or organization shall give preference to persons who enter as first-year students after June 30, 1971."

(e) CANCELLATION OF STUDENT LOANS.—Subsection (b)(2)(C) of such section is amended to read as follows:

"(C) not to exceed 50 percent of any such loan (plus interest) shall be canceled for full-time employment as an allied health professional in any public or nonprofit private institution or agency (including comprehensive ambulatory health care centers), at the rate of 20 percent of the amount of such loan plus interest thereon, which was unpaid on the first day of such service, for each complete year of such service, except that such rate shall be 33⅓ percent for each complete year of service as an allied health professional in any area in a State which is determined by the Secretary, upon recommendation by the appropriate State comprehensive health planning agency (designated or established pursuant to section 314(a)(2)(A) of this Act), in accordance with regulations of the Secretary, to be an area which has a shortage of and need for such allied health professionals, and for cancellation at such higher rate, an amount equal to an additional 50 percent of the total amount of such loans plus interest may be canceled;".

(f) AUTHORIZATION OF APPROPRIATIONS FOR LOANS.—Subsection (c) of such section is amended to read as follows:

"(c) There are authorized to be appropriated to the Secretary for Federal capital contributions to the student loan funds pursuant to subsection (a)(2)(B)(1) $7,500,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, $40,000,000 for the fiscal year ending June 30, 1973, $60,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975, and such sums for the fiscal year ending June 30, 1976, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan for any academic year ending before July 1, 1975, to continue or complete their education. Sums appropriated pursuant to this subsection for the fiscal year ending June 30, 1971, or any subsequent fiscal year shall be available to the Secretary (1) for payments into the funds established by subsection (f)(4) and (2) in accordance with agreements under this section for Federal capital contributions to schools with which such agreements have been made, to be used, together with deposits in such funds pursuant to subsection (a)(2)(B)(ii), for establishment and maintenance of student loan funds."

(g) DISTRIBUTION OF ASSETS FROM LOAN FUNDS.—

(1) Subsection (e) of such section is amended by striking out "1977" wherever it appears therein and inserting in lieu thereof "1978."

(2) Subsection (f)(1)(A) of such section is amended by striking out the word "two" and inserting in lieu thereof "four."

(3) Subsection (f)(3) of such section is amended by striking out "$35,000,000" and inserting in lieu thereof "$100,000,000."

SEC. 303. TRAINING FOR PERSONNEL NEEDED IN COMPREHENSIVE AMBULATORY HEALTH CARE CENTERS.

(a) For purposes of this section, the definition of "comprehensive ambulatory health care center" is the same as in section 645 of the Public Health Service Act, as amended by section 308 of this Act.

(b) Section 795(1)(A) of the Public Health Service Act is amended—

(1) by inserting "health care center administration," immediately after the first reference to "dental hygiene"; and

(2) by inserting "which shall include the curriculums for various types of allied health professions which the Secretary finds to be necessary for the effective operation of comprehensive ambulatory health care centers

(defined in section 645)," immediately after "regulation,".

(c) Section 795(1)(C) of the Public Health Service Act is amended to read as follows:

"(C) which, if in a college or university which does not include a teaching hospital or a comprehensive ambulatory health care center (defined in section 645) or in a junior college, is affiliated (to the extent and in the manner determined in accordance with regulations) with such a hospital or a comprehensive ambulatory health care center,".

(d) Title VII of the Public Health Service Act is amended by adding the following new part H after section 794D as follows:

"PART H—GRANTS FOR PLANNING AND ESTABLISHMENT OF CURRICULUMS FOR TRAINING COMPREHENSIVE AMBULATORY HEALTH CARE TEAMS

"SEC. 794E. (a) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971, $25,000,000 for the fiscal year ending June 30, 1972, $40,000,000 for the fiscal year ending June 30, 1973, and $50,000,000 each for the fiscal year ending June 30, 1974, and the succeeding fiscal year, for special project grants under subsection (b) of this section. The portion of the sums so appropriated for each fiscal year which shall be available for grants under such section shall be determined by the Secretary unless otherwise provided in the Act or Acts appropriating such sums for such year.

"Special Project Grants

"(b) Grants may be made, from sums available therefor from appropriations under section 794E of this title, to assist schools of medicine, training centers for allied health professions (defined in section 795), and other educational institutions—

"(1) to meet the cost of special projects to plan, develop, demonstrate, and evaluate curriculums or establish new programs or modifications of existing programs of education, to train physicians to coordinate teams of health care personnel engaged in providing comprehensive health care on an ambulatory basis; or

"(2) to meet the cost of developing curriculums and training programs for new levels or types of health professions, nurses and allied health professions needed to staff comprehensive ambulatory health care centers (defined in section 645); or

"(3) to meet the cost of planning experimental teaching facilities or other facilities necessary to initiate, strengthen, improve, or expand programs to train persons to administer and staff such comprehensive ambulatory health care centers.

"Applications for Grants

"(c)(1) The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under subsection (b) for any fiscal year must be filed.

"(2) To be eligible for a grant under this part, the applicant must (A) be a public or other nonprofit school of medicine, training center for allied health professions, or other educational institution which includes or is affiliated with a comprehensive ambulatory health care center (defined in section 645), and (B) be accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that the requirement of this clause (B) shall be deemed to be satisfied if in the case of a school which by reason of no, or an insufficient, period of operation is not, at the time of application for a grant under this part, eligible for such accreditation, the Commissioner finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the Secretary makes a final determination as to approval of the application.

"(3) The Secretary may approve any application for a grant under this part if he determines, after giving due consideration to any relevant findings or recommendations of the Council of Health Policy Advisors, that the proposed grant will serve to alleviate the shortage of health care personnel.

"(4) A grant under this part may be made only if the application therefor—

"(A) is approved by the Secretary upon his determination that the applicant meets the eligibility conditions set forth in subsection (c)(2) of this section;

"(B) contains such additional information as the Secretary may require to make the determinations required of him under this part and such assurances as he may find necessary to carry out the purposes of this part; and

"(C) provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part.

"(5) In determining priority of projects, applications for which are filed under subsection (c)(1) of this section, the Secretary shall give consideration to—

"(A) the extent to which the project will increase enrollment of full-time students receiving the training for which grants are authorized under this part;

"(B) the relative need of the applicant for financial assistance;

"(C) the extent to which the project may result in development of curriculum, curriculum improvement, or improved methods of training or will help to reduce the period of required training without adversely affecting the quality thereof; and

"(D) the health care needs of the Nation and the extent to which the proposed project will assist in the alleviation of shortages in health care personnel."

SEC. 304. GRANTS TO PERSONNEL IN THE HEALTH PROFESSIONS, ALLIED HEALTH PROFESSIONS, AND NURSING FOR SERVICE IN AREAS OF CRITICAL NEED

Title VII of the Public Health Service Act is amended by adding after section 794E (as added by this Act) the following new part I as follows:

"PART I—GRANTS TO PERSONNEL IN THE HEALTH PROFESSIONS, ALLIED HEALTH PROFESSIONS, AND NURSING FOR SERVICE IN AREAS OF CRITICAL NEED

"SEC. 794F. (a) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971, and $50,000,000 for each of the fiscal years in the period beginning July 1, 1971, and ending June 30, 1975, for the establishment and operation of a special fund from which the Secretary shall make grants to personnel in the health professions, allied health professions, and nursing for the purpose of alleviating the maldistribution of such health care personnel and improving health care services in areas having a critical need for such personnel.

"APPLICATIONS FOR GRANTS

"(b)(1) The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) before which applications for grants under this part for any fiscal year must be filed.

"(2) To be eligible for a grant under this part, the applicant must be (A) a health professional, allied health professional, or nurse or (B) a person engaged in a course of training who will, at the time the grant is to commence, be a health professional, allied health professional, or nurse.

"(3) Applications for grants from the special fund established by this part may be approved by the Secretary only if—

"(A) the applicant is qualified by education and training to provide a type of health care service determined by the Secretary, upon recommendation of the appropriate State comprehensive health planning agencies, to be needed in areas which have a critical need for health care personnel;

"(B) the applicant agrees to perform health care services in an area of a State which has been designated by the Secretary, upon recommendation of the appropriate State comprehensive health planning agency, as having a critical need for such health professional, allied health professional, or nurse; and

"(C) the application contains reasonable assurance that the applicant will provide health care services in an area of critical need for a period of not less than two years.

"(4) Any application for a grant filed by a person mentioned in subsection (b)(2)(B) may be approved by the Secretary only on the condition that such applicant shall have met the qualifications of subsection (b)(2)(A) and subsection (3) at or before the time the grant is to commence.

"GRANTS FOR SERVICE IN AREAS OF CRITICAL NEED

"(c) The Secretary or his designee is authorized to enter into individual contracts with applicants approved pursuant to subsection (b) of this section. Such contracts shall provide for the payment of grants from the special fund established under this part and shall provide for payment to be made quarterly on an annualized basis. Such contracts shall also specify that at the end of each contract year an additional payment shall be made, if necessary, in an amount sufficient to guarantee that the applicant receives, from all payments made under this part with respect to the contract year and all other income derived during the contract year from providing health care services in the area of critical need, a total amount equal to at least 110 per centum of the national annual median income for persons of comparable education and training or 110 per centum of the applicant's earnings from providing health care services in the previous year, whichever is greater.

"In determining the actual amount of a grant under this part the Secretary or his designee shall take the following factors into account:

"(1) the national median annual income for the applicant's profession, determined in accordance with regulations;

"(2) the cost of living in the area in which the applicant is to serve;

"(3) the background training, and education of the applicant;

"(4) the amount of income the applicant can reasonably expect to receive from service in the area of critical need;

"(5) the number of persons of the applicant's profession needed in the area of critical need;

"(6) where appropriate, all or part of the reasonable cost of equipment, supplies, and facilities; and

"(7) such other factors as the Secretary deems reasonable."

SEC. 305. EFFECTIVE DATE.

This title shall take effect upon enactment.

TITLE IV—PROVISIONS TO ENCOURAGE COMPREHENSIVE AMBULATORY HEALTH CARE CENTERS

SEC. 401. AMENDMENT OF PURPOSE.

Section 600(a) of the Public Health Service Act is amended by inserting ", including comprehensive ambulatory health care centers" immediately after "other facilities".

SEC. 402. AUTHORIZATION OF APPROPRIATIONS FOR CONSTRUCTION AND MODERNIZATION GRANTS.

(a) Section 601 of the Public Health Service Act is amended by adding after paragraph (c) the following new paragraph:

"(d) $200,000,000 for grants for the construction and modernization of comprehensive ambulatory health care centers and for those administrative, operating, and maintenance costs during the first three years of operation of such centers as may be approved by the Secretary."

(b) The amendment made by subsection (a) shall take effect with respect to appropriations made under such section 601 for fiscal years beginning after June 30, 1971.

SEC. 403. STATE ALLOTMENTS.

Effective with respect to appropriations pursuant to section 601 of the Public Health Service Act for fiscal years beginning after June 30, 1971, section 602(a)(1) of such Act is amended to read as follows:

"(a)(1) Each State shall be entitled for each fiscal year to an allotment bearing the same ratio to the sums appropriated for such year pursuant to subparagraphs (1), (2), and (3), respectively, of section 601(a), to an allotment bearing the same ratio to the sums appropriated for such year pursuant to section 601(b), and to an allotment bearing the same ratio to the sums appropriated for such year pursuant to section 601(d), as the product of—

"(A) the population of such State, and

"(B) the square of its allotment percentage, bears to the sum of corresponding products for all of the States."

SEC. 404. PRIORITY OF PROJECTS.

Section 603(a) of the Public Health Service Act is amended by adding after subparagraph (7) thereof the following new subparagraph:

"(8) in the case of projects for the construction of comprehensive ambulatory health care centers, to facilities located in densely populated areas where such facilities do not now exist, as determined by the Secretary."

SEC. 405. STATE PLANS.

(a) Section 604(a) of the Public Health Service Act is amended by redesignating subparagraphs (4)(D) and (4)(E) thereof as subparagraphs (4)(E) and (4)(F) respectively and inserting after subparagraph (4)(C) thereof the following new subparagraph:

"(D) the comprehensive ambulatory health care centers needed to provide adequate ambulatory health care services for patients residing in the State, including many services which traditionally have been rendered in hospitals, and a plan for distribution of such centers throughout the State."

(b) Section 604(a)(5) of the Public Health Service Act is amended by inserting "comprehensive ambulatory health care centers" immediately after "outpatient facilities."

SEC. 406. RECOVERY OF FUNDS.

Section 609(b) of the Public Health Service Act is amended by inserting "comprehensive ambulatory health care center," immediately after "outpatient facility,".

SEC. 407. LOAN GUARANTEES AND LOANS FOR MODERNIZATION AND CONSTRUCTION OF COMPREHENSIVE AMBULATORY HEALTH CARE CENTERS

Section 621 of the Public Health Service Act is amended by inserting "comprehensive ambulatory health care centers," immediately after "outpatient facilities," in subparagraphs (1) and (2) of paragraph (a) thereof.

SEC. 408. DEFINITION OF COMPREHENSIVE AMBULATORY HEALTH CARE CENTER.

Section 645 of the Public Health Service Act is amended by adding after paragraph (1) the following new paragraph:

"(m) The term 'comprehensive ambulatory health care center' means a facility (located in or apart from a hospital) which is organized, equipped, and staffed so as to provide to individuals and families, on a coordinated and continuing basis, a broad range of ambulatory health services, including diagnosis, treatment, and rehabilitation services, mental health services, family planning services, dental care, vision care, and drugs, and which:

"(1) has a staff of physicians licensed to practice medicine who provided medical and surgical care for patients not requiring hospitalization;

"(2) possess one or more operating rooms and appropriate recovery rooms, adequately equipped and staffed, in accordance with standards promulgated by the Secretary, to perform those surgical procedures which can be safely performed on a nonconfinement basis;

"(3) is equipped to provide a broad range of diagnostic tests, including X-rays and electrocardiograms and either has its own laboratory facilities or has reasonable access to such facilities.

"(4) maintains a unified medical record, stored in a central file, for each patient treated in such facility;

"(5) has arrangements with a general hospital and, to the extent possible, with convalescent institutions, home health agencies, and custodial care institutions to assure that services of such institutions will be available to patients of such facility when they can no longer be treated on an ambulatory basis;

"(6) provides preventive care services, including a health education program;

"(7) has a program of peer review to assure quality care and efficient utilization of services; and

"(8) has a program to utilize allied health personnel to assist its professional staff to the maximum extent practicable."

SEC. 409. EFFECTIVE DATE.

Except as otherwise provided in this title, the provisions of this title shall take effect upon the date of enactment of this Act.

TITLE V—ARMED FORCES MEDICAL AND DENTAL ACADEMIES

SEC. 501. UNITED STATES ARMY MEDICAL AND DENTAL ACADEMY.

(a) Part III of subtitle B of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter 409.—UNITED STATES ARMY MEDICAL AND DENTAL ACADEMY

"Sec.
"4420. Establishment.
"4421. Departments and professors: titles.
"4422. Command and supervision.
"4423. Superintendent; faculty: appointment and detail.
"4424. Permanent professors; register.
"4425. Students: appointment; numbers; territorial distribution.
"4426. Students: requirements for admission.
"4427. Students: agreement to serve as officer or in alternative service.
"4428. Course of instruction.
"4429. Students: degree and commission on graduation.

"§ 4420. Establishment

"(a) There is hereby established a United States Army Medical and Dental Academy (hereafter referred to in this chapter as the 'Academy') which shall have (1) such administrative officers as shall be specified in this chapter and (2) such number of professors, assistant professors, instructors, and other assistants in such medical and dental subjects as shall be determined by the Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, to be necessary to carry out the purposes of this chapter.

"§ 4421. Departments and professors: titles

"(a) The Secretary of the Army may prescribe the titles of each of the departments of instruction and the professors of the Academy. However, the change of the title of a department or officer does not affect the status, rank, or eligibility for promotion or retirement of, or otherwise prejudice, a professor at the Academy.

"(b) Upon becoming the senior professor in a department, a permanent professor thereby becomes the head of that department.

"§ 4422. Command and supervision

"(a) The supervision and charge of the Academy is in the Department of the Army, under officers of the Army detailed to that duty by the Secretary of the Army.

"(b) The immediate government of the Academy is under the Superintendent, who is also the commanding officer of the Academy.

"(c) The permanent professors and the registrar exercise command only in the academic department of the Academy.

"§ 4423. Superintendent; faculty: appointment and detail

"(a) The Superintendent of the Academy shall be detailed to that position by the President from any branch of the Army. Other officers on duty at the Academy except the permanent professors, may be detailed from any branch of the Army.

"(b) The permanent professors of the Academy shall be appointed by the President, by and with the advice and consent of the Secretary.

"(c) The registrar of the Academy shall be appointed by the President, by and with the advice and consent of the Senate, and shall perform such duties as the Superintendent of the Academy may prescribe with the approval of the Secretary of the Army.

"(d) Any officer of the Regular Army in a regular or temporary grade above captain may be detailed to perform the duties of registrar without being appointed as registrar. Such a detail does not affect his position on the applicable promotion list.

"(e) No graduate of the Academy may be appointed or detailed to serve at the Academy as a professor or instructor, or as an assistant to a professor or instructor, within two years after his graduation.

"§ 4424. Permanent professors: registrar

"The provisions of section 4336 of this title shall apply with respect to persons appointed as permanent professors or as registrar of the Academy.

"§ 4425. Students: appointment; numbers; territorial distribution

"The authorized strength of students at the Academy is the same as the authorized strength of the Corps of Cadets of the United States Military Academy as specified in section 4342 of this title and the provisions of such section relating to nominations by members and delegates in Congress, appointments by the President and the Secretary of the Army, the filling of annual quotas of cadets, the domiciliary requirements for cadets, and limitations on the number of cadets appointed consistent with physical facilities available, shall apply in the same manner and to the same extent with respect to students at the Academy.

"§ 4426. Students: requirements for admission

"To be eligible for admission to the Academy, a candidate must meet such academic and other requirements (including written or oral examination, or both), as shall be prescribed by the Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, which the Secretary of Defense considers appropriate to indicate requisite aptitude and prior training for coursework and related training leading to a degree of doctor of medicine or doctor of dental surgery or dental medicine.

"§ 4427. Students: agreement to serve as officers or in alternative service

"Each student must sign an agreement that, unless sooner separated, he will—

"(1) complete the course of instruction at the Academy;

"(2) (A) accept an appointment and serve as a commissioned officer of the Regular Army or the Regular Air Force for at least three years immediately after graduation, or (B) perform for at least three years such alternatives medical or dental service as shall be approved by the Secretary of Defense, after consultation with the Secretary of Health, Education, and Welfare; and

"(3) accept an appointment as a commissioned officer as a Reserve for service in the Army Reserve or the Air Force Reserve and remain therein until the sixth anniversary of his graduation, if an appointment in the regular component of that armed force is not tendered to him or if he is permitted to remain a commissioned officer of that component before that anniversity.

"§ 4428. Course of instruction

"(a) The course of instruction at the Academy, which shall lead to the granting of the degree of doctor of medicine or doctor of dental surgery or dental medicine, shall be for such period of time as shall be prescribed by the Secretary of Defense.

"(b) The course of instruction at the Academy shall be so structured as to utilize armed forces medical and dental facilities for instruction and training. The Secretary of Defense is authorized to enter into such cooperative arrangements as may be appropriate for utilizing the medical and dental facilities of the Public Health Service and the Veterans' Administration to carry out the purposes of this Act.

"(c) Students at the Academy shall be given such military training as may be necessary and appropriate.

"§ 4429. Students: degree and commission on graduation

"(a) Under such conditions as the Secretary of the Army may prescribe, the Superintendent of the Academy may confer the degree of doctor of medicine or doctor of dental surgery or dental medicine, upon graduates of the Academy.

"(b) Notwithstanding any other provision of law, a student who completes the prescribed course of instruction may, upon graduation, be appointed a first lieutenant in the Regular Army."

(b) The analysis of such part and such subtitle are each amended by adding at the end thereof the following:

"409. United States Army Medical and Dental Academy ----------4420."

SEC. 502. UNITED STATES NAVY MEDICAL AND DENTAL ACADEMY.

(a) Part III of subtitle C of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter 609.—UNITED STATES NAVY MEDICAL AND DENTAL ACADEMY

"Sec.
"7090. Establishment.
"7091. Departments and professors: titles.
"7092. Command and supervision.
"7093. Superintendent; faculty; appointment and detail.
"7094. Students: appointment; numbers; territorial distribution.
"7095. Students: requirements for admission.
"7096. Students: agreement to serve as officer or in alternative service.
"7097. Course of instruction.
"7098. Students: degree and commission on graduation.

"§ 7090. Establishment

"(a) There is hereby established a United States Navy Medical and Dental Academy (hereafter referred to in this chapter as the 'Academy') which shall have (1) such administrative officers as shall be specified in this chapter, and (2) such number of professors, assistant professors, instructors, and other assistants in such medical and dental subjects as shall be determined by the Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, to be necessary to carry out the purposes of this chapter.

"§ 7091. Departments and professors: titles

"(a) The Secretary of the Navy may prescribe the titles of each of the departments of instruction and the professors of the Academy. However, the change of the title of a department or officer does not affect the status, rank, or eligibility for promotion or retirement of, or otherwise prejudice, a professor at the Academy.

"(b) Upon becoming the senior professor in a department, a permanent professor thereby becomes the head of that department.

"§ 7092. Command and supervision

"(a) The supervision and charge of the Academy is in the Department of the Navy, under officers of the Navy detailed to that duty by the Secretary of the Navy.

"(b) The immediate government of the Academy is under the Superintendent, who is also the commanding officer of the Academy.

"(c) The permanent professors and the registrar exercise command only in the academic department of the Academy.

"§ 7093. Superintendent; faculty: appointment and detail

"(a) The Superintendent of the Academy shall be detailed to that position by the President from any branch of the Navy. Other officers on duty at the Academy except the permanent professors, may be detailed from any branch of the Navy.

"(b) The permanent professors of the Academy shall be appointed by the President, by and with the advice and consent of the Secretary.

"(c) The registrar of the Academy shall be appointed by the President, by and with the advice and consent of the Senate, and shall perform such duties as the Superintendent of the Academy may prescribe with the approval of the Secretary of the Navy.

"(d) Any officer of the Regular Navy or the Regular Marine Corps in a regular or temporary grade above captain may be detailed to perform the duties of registrar without being appointed as registrar. Such a detail does not affect his position on the applicable promotion list.

"(e) No graduate of the Academy may be appointed or detailed to serve at the Academy as a professor or instructor, or as an assistant to a professor or instructor, within two years after his graduation.

"§ 7094. Students: appointment; numbers; territorial distribution

"The authorized strength of students at the Academy is the same as the authorized strength of midshipmen at the United States Naval Academy as specified in section 6954 of this title and the provisions of such section relating to nominations by members and delegates in Congress, appointments by the President and the Secretary of the Navy, the filling of annual quotas of midshipmen, the domiciliary requirements for midshipmen, and limitations on the number of midshipmen appointed consistent with physical facilities available, shall apply in the same manner and to the same extent with respect to students at the Academy.

"§ 7095. Students: requirements for admission

"To be eligible for admission to the Academy, a candidate must meet such academic and other requirements (including written or oral examination, or both (as shall be prescribed by the Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, which the Secretary of Defense considers appropriate to indicate requisite aptitude and prior training for coursework and related training leading to a degree of doctor of medicine or doctor of dental surgery or dental medicine.

"§ 7096. Students: agreement to serve as officer or in alternative service

"Each student must sign an agreement that, unless sooner separated, he will—

"(1) complete the course of instruction at the Academy;

"(2) (A) accept an appointment and serve as a commissioned officer of the Regular Navy, the Regular Marine Corps, or the Regular Air Force for at least three years immediately after graduation, or (B) perform for at least three years such alternative medical or dental service as shall be approved by the Secretary of Defense, after consultation with the Secretary of Health, Education, and Welfare; and

"(3) accept an appointment as a commissioned officer in the reserve component of the Navy or Marine Corps or as a Reserve for service in the Air Force Reserve and remain therein until the sixth anniversary of his graduation, if an appointment in the regular component of that armed force is not tendered to him, or if he is permitted to remain a commissioned officer of that component before that anniversary.

"§ 7097. Course of instruction

"(a) The course of instruction at the Academy, which shall lead to the granting of the degree of doctor of medicine or doctor of dental surgery or dental medicine, shall be for such period of time as shall be prescribed by the Secretary of Defense.

"(b) The course of instruction at the Academy shall be so structured as to utilize armed forces medical and dental facilities for instruction and training. The Secretary of Defense is authorized to enter into such cooperative arrangements as may be appropriate for utilizing the medical and dental facilities of the Public Health Service and the Veterans' Administration to carry out the purposes of this Act.

"(c) Students at the Academy shall be given such naval training as may be necessary and appropriate.

"§ 7098. Students: degree and commission on graduation

"(a) Under such conditions as the Secretary of the Navy may prescribe, the Superintendent of the Academy may confer the degree of doctor of medicine or doctor of dental medicine or surgery, upon graduates of the Academy.

"(b) Notwithstanding any other provision of law, a student who completes the prescribed course of instruction may, upon graduation, be appointed a first lieutenant in the Regular Navy or Regular Marine Corps."

(b) The analysis of such part and such subtitle are each amended by adding at the end thereof the following:

"609. United States Navy Medical and Dental Academy---------- 7090."

SEC. 503. UNITED STATES AIR FORCE MEDICAL AND DENTAL ACADEMY.

(a) Part III of subtitle D of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter 911.—UNITED STATES AIR FORCE MEDICAL AND DENTAL ACADEMY

"Sec.
"9450. Establishment.
"9451. Departments and professors: titles.
"9452. Command and supervision.
"9453 Superintendent; faculty: appointment and detail.
"9454. Permanent professors: registrar.
"9455. Students: appointment; numbers; territorial distribution.
"9456. Students: requirements for admission.
"9457. Students: agreement to serve as officers or in alternative service.
"9458. Course of instruction.
"9459. Students: degree and commission on graduation.

"§ 9450. Establishment

"(a) There is hereby established a United States Air Force Medical and Dental Academy (hereafter referred to in this chapter as the 'Academy') which shall have (1) such administrative officers as shall be specified in this chapter, and (2) such number of professors, assistant professors, instructors, and other assistant in such medical and dental subjects as shall be determined by the Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, to be necessary to carry out the purposes of this chapter.

"§ 9451. Department and professors: titles

"(a) The Secretary of the Air Force may prescribe the title of each of the departments of instruction and the professors of the Academy. However, the change of the title of a department or officer does not affect the status, rank, or eligibility for promotion or retirement of, or otherwise prejudice a professor at the Academy.

"(b) Upon becoming the senior professor in a department, a permanent professor thereby becomes the head of that department.

"§ 9452. Command and supervision

"(a) The supervision and charge of the Academy is in the department of the Air Force, under officers of the Air Force detailed to the duty by the Secretary of the Air Force.

"(b) The immediate government of the Academy is under the Superintendent, who is also the commanding officer of the Academy.

"(c) The permanent professors and the registrar exercise command only in the academic department of the Academy.

"§ 9454. Superintendent; faculty: appointment and detail

"(a) The Superintendent of the Academy shall be detailed to that position by the President from any branch of the Air Force. Other officers on duty at the Academy except the permanent professors, may be detailed from any branch of the Air Force.

"(b) The permanent professors of the Academy shall be appointed by the President, by and with the advice and consent of the Secretary.

"(c) The registrar of the Academy shall be appointed by the President, by and with the advice and consent of the Senate, and shall perform such duties as the Superintendent of the Academy may prescribe with the approval of the Secretary of the Air Force.

"(d) Any officer of the Regular Air Force in a regular or temporary grade above captain may be detailed to perform the duties of registrar without being appointed as registrar. Such a detail does not affect his position on the applicable promotion list.

"(e) No graduate of the Academy may be appointed or detailed to serve at the Academy as a professor or instructor, or as an assistant to a professor or instructor, within two years after his graduation.

"§ 9454. Permanent professors: registrar

"The provisions of section 9336 of this title shall apply with respect to persons appointed as permanent professors or as registrar of the Academy.

"§ 9455. Students: appointment; numbers; territorial distribution

"The authorized strength of students at the Academy is the same as the authorized strength of the Air Force Cadets of the United States Air Force Academy as specified in section 9342 of this title and the provisions of such section relating to nominations by members and delegates in Congress, appointments by the President and the Secretary of the Air Force, the filling of annual quotas of cadets, the domiciliary requirements for cadets, and limitations on the number of cadets appointed consistent with physical facilities available, shall apply in the same manner and to the same extent with respect to students at the Academy.

"§ 9456. Students: requirements for admission

"To be eligible for admission to the Academy, a candidate must meet such academic and other requirements (including written or oral examination, or both), as shall be prescribed by the Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, which the Secretary of Defense considers appropriate to indicate requisite aptitude and prior training for coursework and related training leading to a degree of doctor of medicine or doctor of dental surgery or dental medicine.

"§ 9457. Students agreement to serve as officer or in alternative service

"Each student must sign an agreement that, unless sooner separated, he will—

"(1) complete the course of instruction at the Academy;

"(2) (A) accept an appointment and serve as a commissioned officer of the Regular Air Force for at least three years immediately after graduation, or (B) perform for at least three years such alternative medical or dental service as shall be approved by the Secretary of Defense, after consultation with the Secretary of Health, Education, and Welfare; and

"(3) accept an appointment as a commissioned officer as a Reserve for service in the Air Force Reserve and remain therein until the sixth anniversary of his graduation, if an appointment in the regular component of that armed force is not tendered to him, or if he is permitted to remain a commissioned officer of that component before that anniversary.

"§ 9458. Course of instruction

"(a) The course of instruction at the Academy, which shall lead to the granting of the degree of doctor of medicine or doctor of dental surgery or dental medicine shall be for such period of time as shall be prescribed by the Secretary of Defense.

"(b) The course of instruction at the Academy shall be so structured as to utilize armed forces medical and dental facilities for instruction and training. The Secretary of Defense is authorized to enter into such cooperative arrangements as may be appropriate for utilizing the medical and dental facilities of the Public Health Service and the Veterans' Administration to carry out the purposes of this Act.

"(c) Students at the Academy shall be given such military training as may be necessary and appropriate.

"§ 9459. Students: degree and commission on graduation

"(a) Under such conditions as the Secretary of the Air Force may prescribe, the Superintendent of the Academy may confer the degree of doctor of medicine or doctor of dental medicine or dental surgery, upon graduates of the Academy.

"(b) Notwithstanding any other provision of law, a student who completes the prescribed course of instruction may, upon graduation, be appointed a first lieutenant in the Regular Air Force."

(b) The analysis of such part and such subtitle are each amended by adding at the end thereof the following:

"911. United States Air Force Medical and Dental Academy----------9450."

NO SANCTION FOR TROOP REDUCTION

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 17, 1971

Mr. SIKES. Mr. Speaker, the current efforts to summarily reduce the number of U.S. troops committed to U.S. and world defense programs in Europe are not likely to receive congressional sanction nor should they. There is too much risk. U.S. forces, U.S. equipment, and U.S. expertise are a key part of the Free World defense structure in Europe. In fact, the U.S. involvement may be called the "glue" which holds the Western European defense alliance together.

This is not to say that the nations of Europe should not be doing more than they are in their own defense. I do not hold with the statement that they are doing all they can. They are not. But even should they be prevailed upon to accept greater involvement—and I hope this can be done—there has been testimony before the Defense Subcommittee of Appropriations by high level witnesses that 5 years would be required before European nations could train and equip additional forces of sufficient caliber to take the place of the American forces which some now propose to withdraw.

Arbitrarily and unilaterally reducing the U.S. commitment, and thereby weakening the European defense alliance, would represent an open invitation for aggression by the Russians. It is ironic that the SALT talks now in progress, if successful, would further limit the strategic capability of the United States to resist aggression, and this, also, would invite aggression from the Iron Curtain countries through conventional forces.

A Russian spokesman has suggested that the free world nations and the Iron Curtain countries begin to discuss troop reductions in Europe. This suggestion should and will be endorsed by our own country. To take action in the meantime for the reduction of our own forces without a reciprocal reduction by Soviet or Warsaw Pact forces would be ridiculous in the extreme. At least we should seek reciprocal reductions before declaring ourselves. To withdraw significant numbers of American forces when the risks outweigh the benefit would be foolhardy. An arbitrary reduction at this time would place the United States and the world in a situation where the monetary savings would be minor indeed compared with the risk. The real benefits would accrue to the Russians and their satellites, and only time would tell the magnitude of those benefits.

The sole purpose of the NATO alliance has been to prevent worldwide conflict from breaking out in Europe. None can deny it has been successful.

In the face of increased nuclear threats by the Soviets, massive troop buildups by the Warsaw Pact nations, and many instances of petty harrassment which could have led to open conflict, the NATO nations have not only held firm in their commitment to mutual defense, but have come to rely less on U.S. ground forces.

Over the past 8 years, U.S. strength in Europe has been reduced by about 100,000 while our NATO allies have increased their troop contributions by about 300,000.

Critics of U.S. presence in Western Europe have overlooked the fact that the Soviets have more troops in East Germany alone than the United States has in all of Europe.

They overlook the fact that Soviet warplanes are only minutes from their European targets. They overlook the fact

that Soviet naval units now represent a significant force in the Mediterranean. Critics make no mention of other Soviet and Warsaw Pact troops stationed only hours from areas of potential conflict.

The balance of power between NATO and Warsaw Pact nations is fragile. To upset this balance would tip the power scale even further in favor of the Soviets who, today, enjoy a superior advantage in total available manpower as well as a significant advantage in numbers of tanks, numbers of aircraft, and other important weapons systems. The subject of U.S. troop withdrawal from Europe was given excellent coverage in a recent column by Robert R. Bowie. It appeared in the Christian Science Monitor and I submit it for reprinting in the RECORD:

U.S. TROOPS IN EUROPE

(By Robert R. Bowie)

CAMBRIDGE, MASS.—Once again Senator Mansfield is urging the Senate to adopt his resolution calling for the United States to cut in half its forces in Europe. His aim is to save budget costs and foreign exchange. Given U.S. domestic needs and payments deficit, any such saving has great appeal at first sight. But before endorsing it, two questions should be answered: How will such force cuts affect basic U.S. interests? What will they actually save?

Analysis will show, I think, that they would risk grave damage to crucial U.S. interests out of all proportion to any potential benefits.

1. Stability in Europe would be deeply shaken. By underwriting America's nuclear guarantee, U.S. forces are a key component in the NATO deterrent, which has kept the peace for over two decades. Beyond that, their presence is the foundation for the confidence essential for European and Atlantic cooperation in many fields. Any major withdrawals would be interpreted as a decline in U.S. concern, would raise doubts about its future intentions and reliability, and would give new weight to nearby Soviet power. The political effects could be profoundly unsettling for the existing system of security.

2. Troop withdrawals could gravely impair the prospects for East-West negotiations. Currently the U.S. and its allies are engaged in or have suggested negotiations with the U.S.S.R. and Eastern Europe on many fronts: SALT, Berlin, mutual force reductions, Ostpolitik, etc. Genuine negotiations will require reciprocal concessions. If the United States appears likely to disengage from Western Europe in a major way, the U.S.S.R. would be less inclined to negotiate seriously and more likely to step up efforts to expand its influence and to erode confidence in the U.S.

3. Force cuts in Europe could jeopardize the chances for progress in the Middle East. U.S. naval forces in the eastern Mediterranean are a major factor for stability there. If they are reduced substantially, Israel, Egypt and our NATO allies would have serious doubts about future U.S. purposes; and the U.S. would probably have less influence and the U.S.S.R. more on events and trends in that region.

4. U.S. withdrawals could not be replaced by added European forces. The Europeans now provide over three-quarters of NATO ground forces, and agreed last year to spend a billion dollars more to improve forces and NATO facilities over the next five years. Larger European forces could not, however, substitute for the political significance of U.S. forces as evidence of the continuing U.S. interest in the security and stability of Europe.

5. Cutting U.S. forces in Europe would save much less than many suppose. The costs are of two types: (a) the budget expense; and (b) the foreign exchange drain. The budgetary costs are no higher in Europe than at home, and can be cut only if the forces are demobilized. And even if total U.S. forces were much smaller, it would be wise to keep a major part in Europe. Doing so, however, does entail a large outflow of dollars, especially to Germany. But the Germans offset this foreign exchange drain by buying U.S. equipment; and since 1967 they have neutralized the drain by retaining the dollars in their reserves and not exchanging them for gold reserves.

6. Having wisely decided not to reduce U.S. forces in Europe the President would surely veto any legislation embodying the Mansfield proposal. But the effect on the allies and on the U.S.S.R. of approval in the Senate (even if vetoed) would still be damaging. And attaching the proposal to a pending bill will by-pass the normal committee hearings which would have exposed its premises and consequences before submission to the Senate or House.

This procedure, like the proposal itself, is hard to justify.

THE LAW AND POLLUTION CONTROL

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. PATTEN. Mr. Speaker, an article by a young man in my congressional district has been brought to my attention.

Mr. Alfred J. Petit-Clair, Jr., has delved into the law as it relates to pollution control. In light of our intense concern for the preservation of our environment, I think that Mr. Petit-Clair's remarks are very suitable to this debate. I would, therefore, like to take this opportunity to place his article in the CONGRESSIONAL RECORD for the reference of my colleagues.

The article entitled "Air Pollution Control: Political Solution or Equitable Resolution?" is as follows:

AIR POLLUTION CONTROL: POLITICAL SOLUTION OR EQUITABLE RESOLUTION?

(By Alfred J. Petit-Clair, Jr.)

"Like a swarming bacteria colony, we are suffering from an accumulation of our own wastes."—Howard Lewis.

The problem of air pollution is of increasing concern to us today. We are all aware of the problem and the need for its' resolution. The concern is not limited to Americans, nor should it be. Instead, the problem is now viewed by the entire world community as a growing threat to it. The main reason for this great concern is that the pollution of our atmosphere poses a grave danger to the existence of Mankind and life the way we know it.

A VIEW OF THE PROBLEM

Air as it should be, and as Man has come to know it, is composed of 21% oxygen, 78% nitrogen, and 1% of other gases, including about 272 parts per million of carbon dioxide.[1] Although this mixture is ideal for human life, scientists remind us that air was not made to suit us.[2] Instead, Mankind evolved to fit it.[3] Organisms which could not adjust to this atmosphere died off.[4] Our present atmosphere, then, is not earth's first atmosphere.[5] The evolution of the earth and the life upon it gave rise to this atmosphere.[6] It is, in fact, earth's third atmosphere that we live in today.[7] The large quantities of oxygen, so necessary to life, were introduced some 250 million years ago, by massive vegetation which lived through a process known as photosynthesis.[8] In conducting photosynthesis, plants assimilate carbon dioxide and give off oxygen.[9] Photosynthesis is a necessary process in the maintenance of our atmosphere, and is a pillar in the great cycle of earth-life. To continue this process of photosynthesis, therefore, it is mandatory that massive vegetation be allowed to survive and flourish.[10] Forest fires and natural catastrophies destroy large areas of vegetation annually. Yet, in spite of the dangers and in disregard of necessity, Man lays waste to great forests for profit.

However, of far greater danger to our atmosphere is a development which requires our immediate concern. This development is the present evolution of a fourth atmosphere; [11] a fourth atmosphere characterized by heavy pollution.[12] As Howard R. Lewis observed, "like a swarming bacteria colony, we are suffering from an accumulation of our own wastes." [13] Wastes are being accumulated in the atmosphere at a frightening pace. For example, each ton of fuel oil burned gives off 600 pounds of sulfur oxides, 27 pounds of nitrogen oxides, and 5 pounds of solids.[14] Each ton of coal burned gives off 200 pounds of solids, 40 pounds of sulfur oxides, and 8 pounds of nitrogen oxides.[15] Each ton of refuse burned gives off 25 pounds of solids, 4 pounds of nitrogen oxides, and 2 to 8 pounds of sulfur oxides.[16] The industrial contribution to air pollution can be understood by the following brief statistics: a moderate-sized copper smelter alone emits 1,500 tons of sulfur dioxide per day; an oil refinery, 450 tons; a coal-fired power plant, 300 tons.[17] Another great source of air pollution is the automobile. In addition to contributing pollutants to the atmosphere, the automobile consumes large quantities of air. About 1 ton of air is required to burn 1 tankful of gasoline.[18] In the United States alone, cars consume 70 billion gallons of fuel per year, consuming over 4 billion tons of air.[19] Between industrial and home use, 20 billion tons of air are used per year for fossil fuel combustion.[20] Man is responsible for the respiratory consumption of only 3 million tons per year.[21] It is also to be remembered that while the quality of air is decreasing, its' quantity is fixed.[22]

These figures demonstrate the "clear and present danger" to Mankind as a result of air pollution. Without discussing the economic costs of air pollution in decreased property values, disease, soil losses, lost time at work, and without developing a suicidal approach to the future, as the gloomiest environmental scientists would have us do, the concensus has it that Man is still able to prevent his own suffocation.[23]

The United States has the capacity of reducing air pollution drastically.[24] Most of the devices for controlling emissions from industrial plants were invented years ago.[25] Electrostatic precipitators, wet washers, high temperature filters, bag filters, bag houses, mechanical separators, coal washers, scrubbers, collectors, and holders, are examples of methods available to industry for reducing the accumulation of waste in the atmosphere.[26] Pollution abatement equipment is relatively low in cost.[27] However, it may, in certain cases, be expensive.[28] On the other hand, air purification equipment sometimes results in savings and additional profits, because of increased plant efficiency.[29] In many cases, the use of such equipment leads to the recovery of chemicals which otherwise would have been lost in the air.[30] Engine modifications and the use of inexpensive afterburners promises the day when almost all harmful automobile exhaust may be under control.[31]

Unfortunately, industrial polluters and manufacturers of heating equipment and automobiles, have failed to take concrete, meaningful steps to protect society from oblivion.[32] To them, the installation of adequate control devices represents an unwanted expense or a bite out of their profits.[33] Legis-

Footnotes at end of article.

lators' are constantly pressured by the industrial pressure groups to refrain from mandatory controls.[34] If a state control is proposed, it is not at all unusual for industry to inform the state law-makers that they would relocate in a more favorable area rather than comply with the proposed legislation.[35] Faced with the prospect of a local depression, the politician's choice is limited.[36] This, of course, does not relieve the public official from blame.[37] Members of government, as opposed to the nonspecialized public, are familiar with the ramifications of air pollution.[38] When they fail to act, they fail in their duty to exercise leadership in the public interest.[39] As lawyers, it then becomes our duty to inform ourselves, and take the initiative in bringing about needed environmental reform.

LEGAL BACKGROUND

Attempts to control air pollution are not of recent origin. The common-law of Anglo-American jurisprudence is replete with examples of court-imposed air pollution control. Under the common-law, one who has injured by the unreasonable pollution of the air, may have had a remedy based upon a cause of action in nuisance. The common-law required a substantial showing of injury or "interference" before it would recognize a plaintiff's right to a remedy. Before considering the nuisance doctrine, its' subsequent expansion, and its' importance today, it will be useful to ascertain the meaning of "nuisance".

Nuisance is an aspect of tort law.[40] It is unlike other torts, though, in that it is not capable of being categorized into a conduct, either intentional or negligent.[41] Tortious conduct does not create tort liability in nuisance. Instead, the invaded interest or inflicted harm is the key to the cause of action. A nuisance, therefore, can arise from negligent conduct as well as from intentional tortious conduct.[42] Scholars, including Prosser, have been unable to completely define the concept of nuisance,[43] and so it may not be well to attempt one here. This inability is exemplified by the following quotation:

". . . many wrongs are indifferently termed nuisance or something else, at the convenience of the writer. Thus, injuries to ways, to private lands, various injuries through negligence, wrongs harmful to the physical health, disturbances of the peace, and numberless other things are often or commonly spoken of as nuisances while equally they are called by the other name, and the other name may include other things also which are not nuisances." [44]

In England, the word was first used to describe interferences with servitudes or other rights to the free use of land.[45] The remedy grew to be strictly limited to the interference with the use or enjoyment of land. Our present concept of private nuisance is an offspring of this common-law action.[46]

Paralleling this remedy protecting rights in land, was the development of a separate principle. The courts began to recognize the infringement of the rights of the Crown, or of the general public, to be a crime.[47] Encroachments upon the royal domain or the public highway represented the earliest cases, and were redressed by a suit by the Crown.[48] The concept became greatly enlarged and grew to include "any act not warranted by law, which inconveniences the public in the exercise of rights common to all Her Majesty's subjects." [49] In the sixteenth century, the remedy extended to the civil law, where it was recognized that a private individual who had suffered special damage might have a civil action in tort for the invasion of the public right.[50] Later, acts in interference with the public health were considered public nuisances and actionable.[51] However, the right to bring an action for a public nuisance was limited to those suffering special damages, above those suffered by the general community.[52] Redress of the wrong was generally left to the representatives of the community.[53]

Where the harm is irreparable and where the remedy at law is inadequate, equity has always maintained its right to enjoin the causative conduct.[54] Once the existence of a nuisance is established, the plaintiff normally has three possible remedies: an action for the damages suffered, equitable relief by injunction, and abatement by self-help.[55]

Today, the concept of nuisance as a cause of action has been of considerable value in the area of air pollution control. While an action based upon public nuisance is of far greater importance to environmental advocates, private nuisance actions have enjoyed limited success in abating air pollution within the states of the Union. These actions were premised upon the basic law of land use, which provides that the use and enjoyment of land is necessarily controlled by the essential correlative rights of others.[56] The common-law maxim, "so use your own property as not unreasonably to injure another", still stands as the foundation.[57] Any business, however lawful, which causes annoyance that materially interferes with the ordinary comfort, physically, of human existence is a nuisance that should be restrained.[58]

In accordance with this rule, a New Jersey court enjoined the operation of a coke manufacturing plant which had incessantly emitted smoke from its' ovens, to the lands of neighboring property owners.[59] In another New Jersey case, decided in 1886, a court of equitable jurisdiction enjoined the Pennsylvania Railroad from continuing an operation which constituted a private nuisance to adjoining landowners.[60] In that case the nuisance consisted of the emission of smells, fumes, and noise. As early as 1872, the New Jersey courts had held that it is not necessary for the purpose of an injunction that the odors or gases arising in the conduct of a business be noxious or unwholesome.[61] It is sufficient for the purpose of an injunction to abate a private nuisance, that the odors be merely offensive or disagreeable, as to render life uncomfortable.[62]

The standard of what constitutes rendering life uncomfortable was discussed in the *Melucci* case.[63] In that case, the court said that filling the air around a dwelling house with noxious or offensive vapors or odors, to such a degree as renders persons of ordinary sensitiveness living in the house uncomfortable and sick, is a nuisance and unlawful injury which will be restrained by injunction.[64] An injurious effect upon health is not necessary for an injunction to issue enjoining the continuance of a private nuisance. Smoke, noxious or offensive vapors, although not injurious to health may constitute a nuisance to the owner of neighboring property.[65]

If such annoyance materially interferes with the ordinary comfort of human existence, equity will restrain it by injunction.[66] These decisions are based upon the philosophy that the harm which is to be relieved is directed against the use and enjoyment of property. Various equitable defenses were raised in these cases and considered by the courts. The operator of an offending coke manufacturing plant defended on the ground that the remedy at law was adequate, and therefore, that the injunction should not lie.[67] The court held that the plaintiff should not be bound to sue for damages every day, where the offensive act is of a continuing nature.[68] In another case the court held that the conduct of a lawful business is no defense to a nuisance action.[69]

The court also refused to consider the argument that the injury was the result of a lawful business transaction.[70] The defense of laches has been proven ineffective in these private nuisance actions. The courts holding that a nuisance originally slight, but becoming increasingly more aggravating, does not estop persons affected thereby, through laches, from maintaining a bill.[71] Even 8 years endurance of a private nuisance is not laches.[72] The courts have declared that each days nuisance is a new nuisance, and therefore, a new cause of action.[73]

Environmental advocates are not greatly aided by these decisions because of the limitations inherent in them. The limitations exist by virtue of the philosophy upon which the private nuisance cause of action is premised. The rights which the plaintiff seeks to enforce are merely the private rights to the use and enjoyment of private property. The concept of public nuisance, by comparison, is a forceful and useful tool for environmental reform. Many states have enacted public health laws which define public nuisances, and provide for their remedy. State legislatures have also enacted enabling statutes allowing for the creation of local boards of health to protect the community from public health nuisances. Such statutes outline the affirmative duties of boards of health, as shall be seen below. But, these enactments are not pre-requisite for the community's assertion of its right to abate a public nuisance. At common-law, a public nuisance was indictable merely because it jeopardized public health.[74] The right to abate a public nuisance is clearly a common-law right which is recognized to have pre-existed the enactment of our Federal Constitution.[75] The courts have declared that the right exists in the states in the absence of a statutory grant.[76] And, the abatement of a public nuisance for public safety or health is not a "taking" of private property for public use in violation of the Due Process requirements.[77] While statutory enactments are not necessary to abate public nuisances, the enactment of public nuisance laws can be utilized by environmental advocates to buttress their attacks. Since local boards are given affirmative duties to perform in the public interest, as provided for in the statutes, a non-performance of them is actionable on the grounds of either nonfeasance, misfeasance, or malfeasance.

The New Jersey courts have said that the neglect of a municipal corporation to perform or its negligence in the performance of a public duty imposed on it by law, is a public wrong to be remedied by indictment, but cannot constitute the basis of a civil action by an individual who has suffered particular damage by reason of such neglect.[78] However, the court has clearly indicated that this exemption from individual suit does not extend to the suffering caused by active wrongdoing of the municipal corporation.[79] Mandamus, or actions in lieu of prerogative writs are also available to advocates to compel performance.[80]

New Jersey Statutes Annotated at 26:3–56 provides:

"The local board, instead of proceeding in a summary way to abate a nuisance hazardous to the public health, may institute an action in the Superior Court in the name of the State, on relation of the board, for injunctive relief to prohibit the continuance of such nuisance."

The corruption of air by odors annoying the public and endangering public health or likely to do so, has been held to be a public nuisance suppressible by injunction at suit of the local board.[81] For the New Jersey statute to operate, the nuisance must be public not private; the test being that the nuisance "must affect a considerable number of people." [82] The complete statutory provision includes criminal sanctions for offenses against public health.[83] The New York Public Health Law § 300 is an enabling statute which creates local boards of health. Section 308 of the act empowers local boards to:

(e) "make, without publication thereof, such orders and regulations for the suppression of nuisances and concerning all other

Footnotes at end of article.

matters in its judgment detrimental to the public health in special or individual cases, not of general application, and serve copies thereof upon the owner or occupant of any premises whereon such nuisances or other matters may exist, or upon which may exist the cause to other premises, or cause the same to be conspicuously posted thereon, and,

(f) "maintain actions in any court of competent jurisdiction to restrain by injunction violations of its orders and regulations, or otherwise to enforce such orders and regulations."

Mandamus will lie to compel performance of duties under these sections.[84] While such legislation has been the subject of attack, it is well-settled that a state has power, in protection of the public health, to reasonably regulate any business having relation to the public health.[85] And, for convenience, a state may delegate this power to the local authorities of the various political subdivisions of the state.[86] Pursuant to the New York law, it is settled that a local town board of health may abate a public nuisance within its' territory.[87] The New Jersey courts sustained the legislative delegation to municipal authority by reference to the New Jersey Constitution.[88]

The court held in the *Borough of Manasquan* case that under the 1947 Constitution, Article IV, Section VII, paragraph 11, the possession and enjoyment of private rights are subject to their reasonable exercise of the municipal police power essential to the health, safety, peace, good order and morals of the community.[89] It has been argued that the right to pursue a lawful business is a property right that the law protects against unjustifiable interference, and that any act which impedes the enjoyment of such right constitutes its' wrongful invasion, and is properly treated as tortious.[90] This argument was used to attempt to limit the exercise of police power. In answer, the court held that such interference is actionable unless it is shown that a superior or equal right is the basis of the act.[91]

To fully appreciate the importance of the public nuisance concept for environmental reform, one must remember that this concept is founded upon common-law rights, which did not arise to combat the extreme dangers of air pollution as we know them today. As early as 1886, the New Jersey courts enforced the public right against air pollution by enjoining the operation of a lawful business.[92] In the *Garrett* case, the board of health had granted the appellant a license to conduct a fertilizer business. The appellant, in the operation of the business, contaminated the community with offensive air.

The board of health enjoined the appellant from pursuing these activities on the ground that they constituted a public nuisance. The appellant applied to the court for relief on the ground that he held a legislative grant to conduct the business. The court said that the legislature created boards of health to protect public health.[93] They have not been created or empowered to grant away the public right to pure and uncontaminated air.[94] The success of the public nuisance action is directly traceable to the attitudes of the courts, as noted by Rutgers' Professor Thomas A. Cowan:

"It is apparent that the courts are not inclined to sympathize with the suggestion that air pollution is not a direct menace to health. They appear to give to the word "health" a wider scope, which includes physical well-being. They are aware that many of the serious irritations of modern life, while they cannot be shown directly responsible for physical injury, nevertheless may drastically affect the conditions under which bodily health is promoted." [95]

With this background of law extending into the common-law, and firmly rooted in it, coupled with the favorable and knowledgeable attitudes of the courts, one might easily find it incomprehensible that there is an air pollution problem today.

LEGISLATED LOOPHOLES

Instead of allowing the common-law doctrine of public nuisance to grow and expand, and eventually force industrial polluters to terminate the pollution of our atmosphere, the decade of the 1950's was marked by the adoption of complex air pollution control legislation. In re-examining the past, one observes air pollution as growing progressively worse; causing disease, deaths, and the economic loss of billions of dollars annually.[96]

These facts seem hardly consistent with the adoption of specialized air pollution control legislation. As recent as June 30, 1970, we have been reminded that Mankind faces the choice of either reversing the tide of pollution or becoming "another evolutionary extinction." [97] We are now told that air pollution reduces the amount of sunlight reaching the earth's surface, resulting in a decrease in life-supporting oxygen. [98] A Smithsonian study has noted a 16 per cent reduction in recent years in the sunlight level in Washington. [99] Deadly as these facts are, they are true, and progressively worsening. Perhaps a study of our air pollution control legislation can provide us with an understanding of how the problem became uncontrolled.

New Jersey commissioned a study of air pollution prior to the enactment of its' first air pollution control law. The result of that study was embodied in a report entitled, "Report to the New Jersey Legislature on Air Pollution in New Jersey and Recommendations for its' Abatement." [100] This report formed the basis of the subsequent legislation. The spirit of the law can be inferred by reviewing certain of the findings and recommendations of the Commission. The Air Pollution Commission related that there had been no demonstrable instances in New Jersey where air pollution had adversely affected health. The report mentioned that out of 30 instances of "alleged" threats to health, air pollution had not been established as adversely affecting health. [101] Not realizing that they had already gone too far, the Commission observed that air pollution does not have health implications except under a combination of unusual atmospheric and topography conditions. [102] As may already be guessed, the Commission found that New Jersey's topography affords good air drainage, thereby minimizing any future possibility of danger.[103] These were the findings of a "political" body, and serve to illustrate the futility of depending upon a political solution to the problem. Unlike the judicial branch which is deeply rooted in a rich Anglo-American jurisprudence, the political branch, with all that it accomplishes, is still a body composed of vote-gathering men, ever mindful of the need for campaign funds and extremely sensitive to rich, powerful interest groups. It is interesting, therefore, to compare these 1952 findings of a New Jersey "political" body with the 1886 New Jersey "judicial" decision in the *Garrett* case. In this case, the court affirmed the public's right to pure and uncontaminated air.[104] The Commission did, however, notice that New Jersey had some haze and foul odors, which they recommended should be abated or controlled.[105] The recommendations of the Commission were:

1. The enactment of legislation to authorize the development of standards for New Jersey for pollutants that may be found to produce demonstrable health implications . . ., and,

2. the development of codes to deal with pollutants that have nuisance value only.[106]

The Commission recommended that an Air Pollution Commisison be created under a Director, to be chosen by the Governor.[107] The future Director was the subject of considerable comment. It is here, also, that the true spirit of the proposed legislation can, perhaps, be best understood. The Commission stated that the Director should be selected "with extreme care." [108] "He must be a practical man who fully realizes the importance of industry and other interests to the state." [109] "He should endeavor to quiet rather than arouse fears." [110] Lastly, the Commission recommended that a Director be a man to whom industry may speak freely without fear of betrayal.[111]

The result of this study was the New Jersey Air Pollution Control Act, which was enacted in 1954.[112] It is worthwhile to note that the act was not accompanied by a statement of general purpose. The act established the Air Pollution Control Commisison within the Department of Health. The New Jersey Legislature delegated to the Commisison the power "to formulate and promulgate, amend and repeal codes and rules and regulations controlling and prohibiting air pollution throughout the State or in such territories of the State as shall be affected thereby." [113] Under the act, an order may, absent some constitutional limitation, wholly prohibits an offending business operation in violation of the Air Pollution Control Code.[114] However, the courts have said that if something less will do, it should be ordered, subject to the continuing authority to compel more or ban operation completely, if the lesser measures prove inadequate.[115]

The weakest aspect of the Act is the definition of "Air Pollution" contained in it, which is as follows:

Air Pollution is defined as "the presence in the outdoor atmosphere of substances in quantities which are injurious to human, plant or animal life or to property or unreasonably interfere with the comfortable enjoyment of life and property throughout the State and in such territories of the State as shall be affected thereby and excludes all aspects of employer-employee relationship as to health and safety hazards." [116]

Up until the enactment of this law, air pollution control had proceeded under the public nuisance theory, where noisome odors and smells were suppressible.[117] Now, under the law, contamination of the air can be controlled only by proof of injury to health or unreasonable interference with the comfortable enjoyment of life and property.[118] Such legislation pre-empts the field as far as governmental action is concerned. Environmental advocates need not despair. It has been held that the enactment of state air pollution control laws does not pre-empt the field to individual action.[119] A Federal court has held that the Oregon Air Pollution law did not deprive an individual from proceeding to abate a public or private nuisance.[120] The decision was based upon the concept of nuisance as being a common-law right.[121]

In 1967, the Clean Air Council was created by the New Jersey legislature to replace the New Jersey Air Pollution Control Commission.[122] The definition of "Air Pollution" was also altered to read:

"Air Pollution" as used in this Act shall mean the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life or property, or would unreasonably interfere with the enjoyment of life or property throughout the State and in such territories of the State as shall be affected thereby and excludes all aspects of employer-employee relationship as to health and safety hazards." [123]

The amended act also gave broader powers to the Department of Health to promulgate rules including motor vehicle standards.[124] The Clean Air Council was given procedures for the issuance of orders to cease violations,[125] injunctions, and penalties against violations.[126] However, the problems posed

Footnotes at end of article.

by the very definition of "air pollution", as mentioned earlier, were left unsolved. The present definition is not unique among the states, and presents an obstacle to enforcing society's common-law right to pure and uncontaminated air. New York's Public Health Law § 1267, effective July 1, 1957, contains similar wording:

"Air Pollution" means the presence in the outdoor atmosphere of one or more contaminants in quantities, of characteristics and of a duration which are injurious to human, plant or animal life or to property or which unreasonably interfere with the comfortable enjoyment of life and property throughout the state or throughout such areas of the state as shall be affected thereby; excluding however all conditions subject to the requirements of the labor law and industrial code."

The New York Public Health Law created an Air Pollution Control Board,[127] empowered to promulgate, amend, and repeal codes, rules and regulations under the Act.[128] The rules and regulations promulgated by the Board are enforceable by the Commissioner of Health.[129]

The legal implications of Air Pollution legislation are not fully understood by those concerned with environmental reform. The public generally supports the proposition that these political enactments represent progressive measures aimed at strengthening the control of pollution. This belief is completely erroneous. The truth is that the strongest weapon against air pollution is the state police power to proceed in equity under the common-law right to abate a public nuisance. The limits of equitable action to protect the public health, have not been set, and are solely dependent upon the attitudes of the courts. As will be discussed later, advocates must firmly believe in the equitable maxim that "equity will not suffer a wrong without a remedy." Equity, under the public nuisance concept, has already enjoined the operation of a lawful business for producing "noisome odors and smells."[130] Subsequent Air Pollution legislation has required that the state prove injury to health or unreasonable interference with the comfortable enjoyment of life or property, prior to the granting of an injunction.[131]

But, perhaps of greater importance is the present evaluation of new defenses to injunction actions, as a result of such legislation. Defenses which did not exist against a public nuisance action can now be successfully employed against suits brought under the pollution acts. As Thomas M. Schmitz has pointed out, "public pollution laws are invalid to the extent that compliance therewith is impossible due to a lack of engineering know how."[132] The non-availability of modern abatement controls, however, is not a defense to a tort action initiated by a private citizen.[133] A private citizen is still free to sue in tort for either an injunction or damages,[134] without regard to the defense of impossibility.[135]

The Federal Government has also entered the field of air pollution control. The Federal Constitution does not specifically grant any direct power to provide public health services. Federal activity in this field is based on a broad interpretation of the general welfare clause and the commerce clause of the United States Constitution. A 1968 Federal Court decision affirmed the right of the Federal Government to enact air pollution legislation, on the ground that air pollution affects interstate commerce.[136]

The first Federal enactment of an air pollution control act occurred in 1955.[137] This act had a "state rights" emphasis, which has continued through subsequent enactments to the present. The subsequent enactments occurred in 1963, 1965, and 1967. A Senate Committee report in 1955 recognized that "it is the primary responsibility of State and local governments to prevent air pollution."[138] The Air Pollution Control Act of 1955 did not propose any exercise of police power by the Federal Government and no provision of it invaded the sovereignty of the States, counties or cities.[139] Congress allowed each of the 50 states to proceed against air pollution as each saw fit to handle the problem.

In 1963, the House Subcommittee on Public Health and Safety recognized the serious national problem presented by the pollution of the air.[140] The Subcommittee reported that air pollution would "increase greatly, unless appropriate action is taken, owing to further industrial growth and the concentration of population in urban areas."[141] The result of this report was the enactment of the 1963 Clean Air Act, which again left the primary control of air pollution with the states.[142] In 1965, the Senate Committee on Interstate and Foreign Commerce reported on an amendment to the Clean Air Act, which would require standards for controlling the emission of pollutants from motor vehicles.[143] This committee recognized "the increasing contamination of our environment", with its' resulting cost in disease and "losses amounting to several billion dollars annually."[144] The amendment authorized controls on motor vehicle emissions, but left the responsibility for air pollution control with the States. In 1967, the same Senate committee reported on the Air Quality Act of that year.[145] The committee spoke of the bill as intending to pave the way for control of air pollution on a regional basis, in accordance with air quality standards and enforcement plans developed by the States.[146] The standards and enforcement plans must be consistent with air quality criteria and technology published by the Secretary of Health, Education and Welfare.[147]

The problem inherent in this complex scheme of state statutes and Congressional Acts is that the Federal Government must serve as a watch-dog over 50 sovereign political units, with each, in turn, scrutinizing their own county and city sub-units. The possibility of political chicanery and misfeasance is tremendous. The very strength or weakness of the standards promulgated by the Secretary of Health, Education and Welfare are dependent upon the political ideology of the present White House occupant. And, of course, as was previously mentioned, the requirements of proof, plus the newly emerging defenses, create additional problems for environmental advocates.

While it would be difficult to prove that the complex system of air pollution enactments based upon the dual sovereignty of Federal-State, were the result of intentional loopholing, it is clear that the system is not accomplishing anything. Air pollution is growing progressively worse. There certainly can be little doubt that we are not "controlling" it. And, it is also clear that if a person's right to pure and uncontaminated air were viewed as a fundamental right, legislation would not be necessary. Fundamental rights are not subjects of political controversy; they may not be submitted to vote, they depend on the outcome of no election.[148] As lawyers and officers of the courts, we must strive to alter our concept that only through legislation can basic human needs be satisfied. We must constantly remind ourselves that "Equity will not suffer a wrong without a remedy."

A MODEL STATUTE

A model air pollution control act would have to be free of the weaknesses inherent in present legislation, and would take cognizance of the life and death struggle which pollution promises to become. The act would be enacted out of the compelling interest of the Federal Government to control and abate the "clear and present danger" presented by the pollution of our atmosphere. Congress must also recognize the true scope of pollution, which has gone unnoticed in existing laws. Such law must include the power to enjoin the operation of pollution sources, with provision for civil and criminal liability. It should be based upon the court-recognized cause of public nuisances.

The defenses against an action based upon the model law would be minimal, and perhaps limited to concepts premised in personal freedoms and property rights. However, these defenses would pose no particular problem, for it is well-settled that fundamental freedoms may be suspended where there exists a "clear and present danger."[149]

As was mentioned earlier, the true scope of air pollution must be recognized by Congress. Pollution actually involves three separate areas:

(1) The emission of wastes into the atmosphere,

(2) the consumption of air, and

(3) the addition of oxygen into the atmosphere.

A model law would provide for the control of waste emissions, the control of air consumption, and provide for the photosynthetic addition of oxygen into the atmosphere.

Emissions can be controlled by preventing "any measurable quantity, as determined by the latest scientific methods, of substances from being released into the air, which if emitted would upset the balance of air, as set by the ratio of 78% nitrogen, 21% oxygen, and 1% mainly carbon dioxide." Also, a deadline would be set for the non-production and use of internal combustion engines and fuel burning heating units, with electrical units designated for future use. To assist private citizens and industrial interests during the transition, tax incentives should be provided. In the event, that a particular industry found compliance impossible, we would be required to suffer the sacrifice of closing that industry and losing its products.

The consumption of air would be controlled greatly by the outlawing of fuel burning equipment and the internal combustion engine, as was pointed out earlier with statistics.

Land-use planning would serve to increase the additions of oxygen into the atmosphere. Such planning would consist of the setting aside of vast land areas where vegetation would be allowed to grow unhindered. Also, vacant land throughout the Nation could be planted, with landowners given tax relief for expenses incurred in planting. Factories and cities, as well as areas surrounding airports could contain oxygen-producing greenery. The enacted legislation should make criminal the destruction of our forests. The use of wood in construction could be banned, with great efforts made to investigate the uses of plastics as a wood-substitute.

This model law would have the added benefits of uniformity. Uniformity of our air pollution laws was urged on June 29, 1970 by Illinois Attorney General William J. Scott.[150] Speaking at the Attorneys General Conference in St. Charles, Illinois, Mr. Scott called for the drafting of model pollution control laws that could be adopted by other States, so that uniform law might become the pattern from coast to coast.[151] Mr. Scott's proposal involves State action, rather than Federal. It is the writer's belief that the best solution lies with Federal action. In addition to providing the responsibility in only one agency rather than fifty, it has already been held that it is within the power of Congress to enact air pollution legislation.[152]

Finally, Congress must institute a program of international cooperation for the solution of the problem. Congress has recognized the necessity for this move. In 1965, the Senate Committee on Interstate and Foreign Commerce declared:

"Extension of the existing Federal abatement authority to cases of air pollution af-

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fecting neighboring countries is a reasonable and desireable step. The boundaries that separate the United States from Canada and Mexico do not block the flow of pollution originating within our borders, nor do they shield persons living in those countries from the adverse effects of such pollution. As a member of the North American "community," the United States cannot in good conscience decline to protect its neighbors from pollution which is beyond their legal control." [153]

The exclusive control over the Nation's foreign relations is vested in the National goverment. Congress has the power to enact legislation necessary and proper for carrying into effect the valid provisions of a treaty.[154] Once the National government embarks on an International program of air pollution control, the most proper legislative body for the enactment of our internal pollution laws would, therefore, be Congress.

SOME PRACTICAL CONSIDERATIONS

It has already been mentioned that rich industrial polluters are resistant to pollution controls. Powerful groups representing the industrial interests maintain constant pressure on our legislators. The public, on the other hand, is relatively uninformed. It does not recognize the extent of the dangers facing it, and believes that the present pollution laws are actually solving the problem. The result of this is a one-sided lobbying situation. Legislators constantly meet with industrial interests, while the public fails to become a forceful and aggressive voice for environmental reform. Large corporations expend huge sums for legal talent and resources to control the effect of pollution laws on them.[155] In summation, the present attitude of our political leaders to mandatory and broad air pollution legislation can best be understood by a reading of President Nixon's comments of July 9, 1970:

"I also think that in practical terms, in this sensitive and rapidly developing area, it is better to proceed a step at a time—and thus to be sure that we are not caught up in a form of organizational indigestion from trying to re-arrange too much at once." [156]

Skepticism to a political solution of this problem is not new. Attorney Victor J. Yannacone, Jr. of the Environmental Defense Fund says that, "every member of the trial bar must knock at the door of courthouses throughout the Nation and seek the protection of equity for our environment." [157] He argues that "only imaginative legal action on behalf of the general public in class actions for declaratory judgments and injunctive relief will get the story told and lay the matter before the conscience of the community." [158]

JURISPRUDENCE AND THE POLLUTION PROBLEM

Jurisprudence is the science of the law, which treats of the principles of the law and legal relations. Depending upon one's philosophy, the concept of jurisprudence can mean different things. Ulpian defined jurisprudence as "juris prudentia est divinarum atque humanarum rerum notitia, justi atque injusti scientia", [159] which, as translated in Black's Law Dictionary, reads, "jurisprudence is the knowledge of things divine and human, the science of what is right and what is wrong." Ulpian's philosophy of the law can be summarized as "'the precepts of the law are these: to live honestly, to injure no one, and to give every man his due." [160] Professor Wu also reminds us that Ulpian said by "natural law all men are born free." [161] Our own Declaration of Independence recognized the elementary principle that "all men are created equal, that they are endowed by their Creator with certain unalienable Rights." The framers of the Declaration of Independence, therefore, formally acknowledged the existence of a "Creator". In so doing, they recognized the existence of a higher lawmaker than Man. And, they also mentioned the presence of "certain unalienable Rights," which were endowed upon Man by the Creator. The Declaration of Independence spoke of "life, liberty, and the pursuit of happiness", as constituting certain of the unalienable rights. The right to life, liberty, and the pursuit of happiness, are fundamental natural rights, which find their source in the Creator, and not in Man. Man is only important in enforcing and protecting these rights against a taking of them by other men. These concepts are not mere phrases used to glamorize a goal or a cause, but are truly part of our Anglo-American legal heritage.

Professor Wu has written that Lord Coke was "one of the staunchest supporters of the law of nature." [162] It was he who declared that "the law of nature is part of the law of England," that "the law of nature was before any judicial or municipal law", and that "the law of nature is immutable." [163] Lord Coke wrote:

"The law of nature is that which God at the time of creation of the nature of man infused into his heart, for his preservation and direction; and this is lex aeterna, the moral law, called also the law of nature. And by this law written with the finger of God in the heart of man, were the people of God a long time governed, before the law was written by Moses, who was the first reporter or writer of law in the world." [164]

Again, Lord Coke wrote:

"And it appears in our books, that in many cases, the common law will control Acts of Parliament, and sometimes adjudge them to be utterly void: for when an Act of Parliament is against common right and reason, or repugnant, or impossible to be performed the common law will control it, and adjudge such Act to be void." [165]

It is clear, therefore, that the fundamental rights to life, liberty, and the pursuit of happiness, are natural rights which pre-existed the drafting of the Declaration of Independence. And, such rights are properly the subject of governmental protection.

EQUITABLE RESOLUTION OF THE PROBLEM

Establishing that the rights to life and the pursuit of happiness are fundamental human rights derived from the natural law, it is obvious that odors and vapors, either offensive or a threat to health, are infringements of these rights. Air pollution, therefore, is an infringement of Man's fundamental rights. Legislation is not necessary to protect a fundamental right.

As previously mentioned, fundamental rights are not subjects of political controversy; they may not be submitted to vote, they depend on the outcome of no election. Hence, the futility of a legislated solution to the problem. Legislatures operate under the theory of compromise, but fundamental rights are not to be comprised; they exist and only require enforcement. Instead of a legislated solution to the problem, an enforcement of these fundamental rights may be had in a court of law where a remedy is available. It is possible, though, that in a structured legal system there does not exist a remedy for the enforcement of a given fundamental right. This is the case with the air pollution problem. No legal remedy exists which can enforce the fundamental right to pure and uncontaminated air. In such cases, one must turn to the courts of equity. Equity, it will be remembered, will not suffer a wrong without a remedy. Nonetheless, there do exist certain legal remedies which can be employed in the battle against air pollution, aside from those remedies which must yet be formulated. A complete discussion of the remedies, both in praesenti and in future, appears below.

REMEDIES AGAINST INDIVIDUAL POLLUTERS

A. Actions for damages

1. *Private nuisances:* The cause of action of private nuisance affords a useful means of combatting industrial pollution. A private nuisance action is founded upon the common-law right to the "use and enjoyment of one's own property." Any interference with a property owner's right to the use and enjoyment of his property is tortious and, therefore, actionable. Although this action is founded upon property ownership, any interest sufficient to be dignified as a property right will support the action.[166] Prosser tells us that a nuisance action will lie in favor of a tenant for a term, or from week to week, or a mortgagor in possession after foreclosure, or even one in adverse possession without title.[167] It may also be maintained by the holder of an easement.[168] Therefore, prior to initiating an action of private nuisance, the environmental advocate must represent a client holding such a property interest. The client should preferable hold a property interest in the vicinity of an industrial polluter.

Once a nuisance action has been established with the advocate representing an injured party, suit may be instituted for damages. Since an action for damages is legal, rather than equitable, the defense of pleading the Statute of Limitations may be raised. However, in the case of industrial pollution this should present no particular problem. Industrial pollution being associated with an industry, the chances are that the offending acts are continuous. The courts have already declared that each days nuisance is a new nuisance, and therefore, a new cause of action.[169]

Damages are measured by the value attached to the use and enjoyment which has been deprived, loss of rentals, expenses incurred by the nuisance, the value of discomfort or inconvenience, the injury to health, and other personal injuries.[170]

The value of obtaining a judgment for damages is the burden placed upon the industrial polluter. Once the offender is made to pay the nuisance, and any additional costs such as medical bills, a new painting of the premises, loss of rentals, etc., he will begin to think in terms of voluntarily abating it.

The cost to the polluter is further amplified when one considers that because this is a legal action, the plaintiff must continually re-sue for damages. Damages suffered in the future can be recovered by suit initiated in the future, and prior to the expiration of the Statute of Limitations.

2. *Public Nuisances*: The cause of action of public nuisance is founded upon the common-law concept that an infringement of the public right is a wrong. However, a private individual is not free to bring an action for the invasion of a purely public right. As was mentioned earlier, a private individual may bring a public nuisance action only if he has suffered special damages, above those suffered by the general community. Redress of this wrong is generally left to the representatives of the public.

The environmental advocate, once obtaining a client who has suffered special damages by virtue of the invasion of the public right, may institute suit and recover damages as in private nuisance recoveries.

B. Actions for specific relief

1. *Private nuisance:* In addition to awarding damages for injury already suffered, a court of Equity can enjoin a continuing nuisance. Equity has the discretionary power to decree the abatement of a private nuisance. Since an injunction is an equitable remedy, the Statute of Limitations does not apply, and is, therefore, no defense. Laches is of no consequence as a defense either, because the courts have held that each days nuisance is a new nuisance, and a new cause of action. Equity will only grant an injunction where the remedy at law is inadequate, and where the plaintiff suffers irreparable injury. A continuous nuisance has been declared irreparable injury. Where the remedy at law

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is adequate, but the nuisance is of a continuous nature, equity has held that the plaintiff should not be bound to sue for damages every day, and has granted injunctive relief. The common-law maxim, "so use your own property as not unreasonably to injure another," is still applied by the courts.[171] Any business, however lawful, which causes annoyance that materially interferes with the ordinary comfort, physically, of human existence is a nuisance that should be restrained.[172]

The value of this form of action is obvious. A successful suit for injunctive relief abates the offensive industry forever.

2. *Public nuisance:* It is in the field of public nuisance that matters grow more difficult. The difficulty lies in finding an individual who has suffered special damages, above those suffered by the general community, in order to pursue the public nuisance action. However, it is not necessary for the purposes of environmental reform, that the plaintiff be a private individual. The government, as representative of the community, may proceed to abate a public nuisance without the need for showing special damages.

Again, the value of this action is that the offensive industry is enjoined from continuing the nuisance.

C. Actions for declaratory relief

An action for a declaratory judgment can be of significant value in certain cases. Basically, a declaratory judgment simply declares the rights of the parties or expresses the opinion of the court on a question of law, without ordering anything to be done.

Should a company decide to relocate in a particular area or open a new plant, an environmental advocate could bring an action for a declaratory judgment against the company on behalf of his client, an adjoining land-owner. The purpose of the action would be to have the court declare that the particular proposed plant would, when made operational, constitute a private nuisance to the land-owner. This determination would be based upon the law of nuisance, as it evolved in that particular jurisdiction, applied to the facts of the particular operation.

The value of all of these in praesenti causes of action are:

(1) to abate air pollution,

(2) to financially hinder the polluters of our atmosphere,

(3) to make the courts aware of the problem, and

(4) to educate and bring the facts before the public.

Even if an action is not successful in obtaining an injunction to abate pollution, these actions will cause polluters time and money, along with sufficient adverse publicity to make them more agreeable to becoming community minded in expending for pollution controls. Should this aim fail, the actions will still make the courts aware of the problem. This alone will be of great value when it comes time to call upon the courts to frame new and novel causes of action. Lastly, the education of the public would serve to generate a large interest in pollution, which could be channeled toward demands upon the political system for reform.

It now remains for us to look toward some of the in future actions.

IN FUTURO ACTIONS

A. Enjoin Secretary of Health, Education and Welfare

The 1967 Air Quality Act, as previously discussed, provided for the control of air pollution on a regional basis, in accordance with air quality standards and enforcement plans developed by the states. The standards and enforcement plans were to be consistent with air quality criteria and technology published by the Secretary of Health, Education and Welfare.

Environmental advocates can proceed in an equitable action to enjoin the Secretary of Health, Education and Welfare from publishing inadequate air quality standards. It may be shown in evidence that the standards so published are inadequate, and subject the public to increasing danger from air pollution. Should the court issue the injunction, the air quality standards published would be of greater benefit to the public. Should the court deny the request, the publicity generated by the case and the testimony given in it, would serve an educational purpose.

B. Writ of Mandamus to compel state health department action

The duty of the state to protect its citizens from a public nuisance is of common-law origin, and therefore, does not depend upon statutory authority for its existence. Environmental advocates must take this position, and act upon the belief that subsequent air pollution legislation has not deprived the public of this common-law protection. This duty, having its basis in the common-law, should not be legislated-away by the enactment of anything less than the full protection of the public health and welfare.

The writ of mandamus is issued from a court of superior jurisdiction and is directed to an administrative official, commanding the performance of a particular act. For our purposes, the writ should be directed to local and state health department officials compelling them to proceed against public health nuisances, as provided for in the common-law. In those jurisdictions that have legislatively altered this procedure, an action in lieu of prerogative writ should be employed.

Here again, the failure to achieve success would have incidental benefits in the form of publicity, education, and court-awareness.

C. Misfeasance action against the United States Congress

Article 1, Section 8, Clause 1, of the United States Constitution provides that Congress shall have power to . . . provide for the . . . general Welfare of the United States. Clause 18 grants Congress the power "to make all Laws which shall be necessary and proper for carrying into execution the foregoing powers. Viewing air pollution as a threat to Mankind, which is within Congressional authority to alleviate, it certainly appears that a cause of action exists here.

The action should be instituted in equity rather than for damages, because of the problem presented by "standing". In an equitable court, the plaintiff can testify as to the injury, and if the requisite standing is not indicated can rely on the equitable maxim that "equity will not suffer a wrong without a remedy." The court should be asked to enjoin the continued misfeasance of Congress in not adequately protecting and providing for the general welfare.

D. Tort action for breach of parens patriae duties

The state and federal governments stand in parens patriae to the citizens of their jurisdictions, and as such owe a duty to provide at least fundamental rights to them. Viewing the right to pure and uncontaminated air as a fundamental right, it is obvious that the state and federal governments have not lived up to their duties under the parens patriae doctrine.

Environmental advocates should bring class actions for damages on behalf of the public for the loss of the right to pure and uncontaminated air.

E. Constitutional actions

The right to pure and uncontaminated air is a fundamental human right, having its origin in the natural law, and its reaffirmance in the Declaration of Independence, as was previously mentioned. This fundamental right is presently being infringed by governmental acquiescence, and should be enforced by the courts.

The fourteenth amendment to the United States Constitution prevents the states from denying to its citizens the equal protection of the laws. The right to pure and uncontaminated air is a fundamental right, yet some states deprive their citizens of it. It is unconstitutional for the states of New York and New Jersey to allow a level of air pollution which so exceeds that allowed in Idaho, etc. Clearly there is a denial of the equal protection of the laws in such a situation.

CONCLUSION

Comparing the 1952 findings of the New Jersey legislative Commission (page 16) and President Nixon's recent comments (page 30), with the progress of the common-law concerning Man's right to pure and uncontaminated air, it becomes obvious that at this time it would be futile to depend upon a political solution to the air pollution problem. Instead, environmental advocates must devote their energies to the litigation of the solution. Only through the introduction of expert testimony, and the conduct of cross examination, will the facts be placed before the people, and the ultimate resolution obtained.

FOOTNOTES

[1] Howard Lewis, *With Every Breath You Take,* Crown Publishers, Inc., New York (1965) page 12.
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[3] Howard Lewis, supra, page 12.
[4] Howard Lewis, supra, page 12.
[5] Howard Lewis, supra, page 15.
[6] Howard Lewis, supra, page 13.
[7] Howard Lewis, supra, page 15.
[8] Howard Lewis, supra, page 13.
[9] Howard Lewis, supra, page 13.
[10] Howard Lewis, supra, page 13.
[11] Howard Lewis, supra, page 15.
[12] Howard Lewis, supra, page 15.
[13] Howard Lewis, supra, page 15.
[14] Howard Lewis, supra, page 43.
[15] Howard Lewis, supra, page 43.
[16] Howard Lewis, supra, page 43.
[17] Howard Lewis, supra, page 43.
[18] J. I. Bregman, *The Pollution Paradox,* Spartan Books, Inc., New York (1966) page 10.
[19] J. I. Bregman, supra, page 11.
[20] J. I. Bregman, supra, page 11.
[21] J. I. Bregman, supra, page 11.
[22] J. I. Bregman, supra, page 11.
[23] Ronald G. Ridker, *Economic Costs of Air Pollution,* Frederick A. Praeger, Publishers, New York (1967).
[24] J. I. Bregman, supra, page 85.
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[26] J. I. Bregman, supra, page 87.
[27] J. I. Bregman, supra, page 87.
[28] J. I. Bregman, supra, page 87.
[29] J. I. Bregman, supra, page 87.
[30] J. I. Bregman, supra, page 88.
[31] J. I. Bregman, supra, page 91.
[32] Howard Lewis, supra, page 244.
[33] Howard Lewis, supra, page 244.
[34] Howard Lewis, supra, page 246.
[35] Howard Lewis, supra, page 250.
[36] Howard Lewis, supra, page 249.
[37] Howard Lewis, supra, page 251.
[38] Howard Lewis, supra, page 251.
[39] Howard Lewis, supra, page 251.
[40] William L. Presser, *Law of Torts,* 3rd. Edition (1964) page 594.
[41] Presser, supra, page 594.
[42] Presser, supra, page 595.
[43] Presser, supra, page 592.
[44] Bishop, *Non-Contract Law,* (1889) § 411.
[45] Prosser, supra, page 593.
[46] Prosser, supra, page 593.
[47] Prosser, supra, page 593.
[48] Prosser, supra, page 593.
[49] Stephen, *General View of the Criminal Law of England,* (1890) page 105.
[50] Prosser, supra, page 593.
[51] Prosser, supra, page 605.

[52] Prosser, supra, page 608.
[53] Prosser, supra, page 608.
[54] Prosser, supra, page 625.
[55] Prosser, supra, page 623.
[56] *Nicholas Latzoni v. City of Garfield*, 123 A. 2d 531 (New Jersey Supreme Court 1956).
[57] *Nicholas Latzoni*, supra, page 531.
[58] *George P. Kroecker, et al. v. The Camden Coke Co.*, 82 N. J. Eq. 373 (New Jersey Court of Chancery 1913).
[59] *George P. Kroecker*, supra, page 374.
[60] *The Pennsylvania Railroad Co. v. Adam Angel et ux*, 41 N.J.Eq. 316 (Court of Errors and Appeals 1886).
[61] *Meigs and others v. Lister and others*, 23 N.J.Eq. 199 (Court of Chancery 1872).
[62] *Meigs*, supra, page 199.
[63] *Mary Melucci and Charles Melucci v. Thomas E. Eagan, et al.*, 124 N.J.Eq. 241 (Court of Errors and Appeals 1938).
[64] *Melucci*, supra, page 241.
[65] *Caddie L. Ross v. Frank M. Denan*, 101 N.J.Eq. 281 (Court of Errors and Appeals 1927).
[66] *Caddie L. Ross*, supra, page 281.
[67] *George P. Kroecker*, supra, page 376.
[68] *George P. Kroecker*, supra, page 376.
[69] *Michael Nowak et al. v. Ernestina Baier et al.*, 78 N.J.Eq. 112 (Chancery Court 1910).
[70] *The Pennsylvania Railroad Co.*, supra, page 326.
[71] *Melucci*, supra, page 241.
[72] *William J. Rowland et al v. New York Stable Manure Co.*, 88 N.J.Eq. 168 (Chancery Court 1917).
[73] *William J. Rowland*, supra, page 168.
[74] *The State of New Jersey, Ex Rel, the Board of Health of the Township of Saddle Brook v. Sommers Rendering Co.*, 66 N.J. Super 334 (Superior Court 1961).
[75] *Ajamian v. North Bergen Township*, 103 N.J. Super 61 (Superior Court 1968).
[76] *Ajamian*, supra, page 61.
[77] *Ajamian*, supra, page 61.
[78] *Bengivenga* v. *Plainfield*, 128 N.J.L. 418 (Court of Errors and Appeals 1942).
[79] *Bengivenga*, supra, page 420.
[80] 1896, *Op. Atty. Gen.* 103 (New York).
[81] *Sommers*, supra, page 335.
[82] *Sommers*, supra, page 340.
[83] *Sommers*, supra, page 340.
[84] 1896, *Op. Atty. Gen.* 163 (New York).
[85] *People* v. *Hamilton*, 188 App. Div. 783, 177 N.Y.S. 222 (1919).
[86] *People* v. *Hamilton*, supra, page 222.
[87] 1 *Op. State Compt.* 275, (New York, 1945).
[88] *J. Albert Priory v. Borough of Manasquan*, 120 A. 2d 625 (Superior Court, App. Div. 1956).
[89] *J. Albert Priory*, supra, page 626.
[90] *John A. Sustick v. Frank Slatina*, et al., 137 A. 2d. 54 (Superior Court, App. Div. 1957).
[91] *John A. Sustick*, supra, page 54.
[92] *William H. Garrett v. The State*, 49 N.J.L. 94 (Supreme Court 1886).
[93] *William H. Garrett*, supra, page 94.
[94] *William H. Garrett*, supra, page 94.
[95] Thomas A. Cowan, *Air Pollution Control in New Jersey*, 9 Rutgers L. Rev. 609 (1955).
[96] 1965 *U.S. Code Cong. and Adm. News*, p. 3610.
[97] *Newark Evening News*, June 30, 1970, page 41.
[98] *Newark Evening News*, June 30, 1970, page 41.
[99] *Newark Evening News*, June 30, 1970, page 41.
[100] *Report to the New Jersey Legislature on Air Pollution in New Jersey and Recommendations for its Abatement* March 19, 1952.
[101] *Report to the New Jersey Legislature*, supra, page 6.
[102] *Report to the New Jersey Legislature*, supra, page 6.
[103] *Report to the New Jersey Legislature*, supra, page 7.
[104] *William H. Garrett*, supra, page 94.
[105] *Report to the New Jersey Legislature*, supra, page 11.
[106] *Report to the New Jersey Legislature*, supra, page 11.
[107] *Report to the New Jersey Legislature*, supra, page 16.
[108] *Report to the New Jersey Legislature*, supra, page 16.
[109] *Report to the New Jersey Legislature*, supra, page 16.
[110] *Report to the New Jersey Legislature*, supra, page 16.
[111] *Report to the New Jersey Legislature*, supra, page 16.
[112] *Air Pollution Control Act* (1954), L. 1954, c. 212 N.J.S.A. 26:2C–1.
[113] N.J.S.A. 26:2C–8.
[114] *Department of Health* v. *Roselle*, 34 N.J. 331, 169 A. 2d 153 (1961).
[115] *Department of Health*, supra, page 153.
[116] N.J.S.A. 26:2C–2.
[117] *Department of Health* v. *Owens-Corning Fiberglas Corp.*, 100 N.J. Super 366 (Superior Court, App. Div. 1968).
[118] *Owens-Corning*, supra, page 366.
[119] *Renken* v. *Harvey Aluminum Inc.*, 226 F. Supp. 169 (D. Ore. 1963).
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[123] N.J.S.A. 26:2C–2.
[124] N.J.S.A. 26:2C–8.1.
[125] N.J.S.A. 26:2C–14.
[126] N.J.S.A. 26:2C–19.
[127] New York Public Health Law § 1268.
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THOUGHTS ON EFFECTIVE SELF-GOVERNMENT

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. CONTE. Mr. Speaker, on May 1, 1971, Erwin N. Griswold, Solicitor General of the United States, was the main speaker at a dinner in Boston in honor of my distinguished colleague from Massachusetts, the Reverend ROBERT F. DRINAN.

It is particularly fitting that this date marked the nationwide observance of Law Day. In addition to paying tribute to Congressman DRINAN, Mr. Griswold spoke most eloquently on the workings of our federal system. His remarks, "Thoughts on Effective Self Government," are a reasoned commentary on how our democracy functions and demonstrate the need of that system to have rational and intelligent men working continuously for its betterment.

Because of its pertinence, I now insert this speech and commend it to the attention of my colleagues:

THOUGHTS ON EFFECTIVE SELF-GOVERNMENT

(By Erwin N. Griswold)

What could be more fitting than a Law Day gathering in honor of our friend Father Robert F. Drinan? When the invitation to participate in this evening's celebration came to me some weeks ago, I was pleased, and I promptly accepted. For Father Drinan is a great citizen of this community and of this country, and it is fitting that we should join in telling him of our high regard for him.

As I thought about the situation, however, I could not help but think of the change which has occurred in my lifetime, perhaps especially in the last ten years. With my Quaker ancestry, it has been easy for me to like all people, to look for the good in anyone, and to keep hoping for the better. Perhaps I take religion too lightly, but I have always regarded it as an intensely personal matter. Yet, as I look back to my youth, there was always a gulf which separated me from Catholics in my community more than from any other group, religious, ethnic or racial. They not only sent their children to separate schools, but they isolated them there. The parochial school in my neighborhood was named, perhaps unhappily, St. Philomena's. The pastor warned his children against us. We could not play baseball with them. As far as we could see, they lived in another world. From my point of view, it was puzzling, and not good.

As a result, I knew few Catholics in my youth, and did not feel close to any of them. Fortunately, all of this has changed in recent years. From my point of view, it is surely a

change for the good. We are all Americans. We all believe deeply in freedom of religion, as well as many other things. Surely it is meet that we should work together.

But there are other reasons for my being a bit surprised that I am here tonight. You know, when Father Drinan came to be Dean of the Boston College Law School, I resented it a little bit. This was because I had come to have such high regard for Father Kennealy that I hated to see him give up his leadership of this fine law school. I still have that high regard for Father Kennealy; but I have found that there is room for high regard for Father Drinan, too. In the course of my years in Cambridge, I had many contacts with him, in many fields—in relations between our two law schools, which were, I think, good, in relations with the American Bar Association, and with the United States Commission on Civil Rights. I soon found that Father Drinan was an activist, and a working activist. When there was work to be done, he was doing it. He was one of the principal founders of the Section of Family Law of the American Bar Association. He was Chairman of the Massachusetts State Advisory Committee to the Civil Rights Commission. And now he is a Congressman.

(Years ago, thinking I knew him fairly well, I tried to write to him as "Dear Bob". But my good Secretary always made it "Dear Father Bob." Of course, I did not mean any disrespect, quite the contrary. But he will be Father Bob tonight.)

For further reasons for surprise at my being here, I will observe that he is a Democratic Congressman, and I am a Republican, serving in a Republican administration. I may add, too, that Father Bob defeated a Harvard Law School graduate in becoming a Congressman. But despite all these differences—perhaps because of them—I am glad to be here tonight. In less time than it usually takes for an outsider to be accepted here, Father Bob has made himself a citizen of this community, and I am happy to join with you in paying great respect to him, and to his fruitful, and for a churchman, unusual career in the law.

With these preliminaries, I will turn to the theme of my talk tonight, which is that the greatest achievement of mankind on earth is effective self-government—greater than nuclear physics, or putting a man on the moon, greater than art or music or literature, though one of the fruits of effective self-government is that they may flourish. I do not overlook religion, but for many it has an outside source. For government, though, we are on our own.

Of course, fully effective self-government is never accomplished. There are always problems. We are always striving. We do a good deal if we keep the ship afloat and generally moving ahead. Those of us who have grown up with our system sometimes take it for granted, and do not recognize how inherently complicated it is. We are a country of more than two hundred million people, a number which has considerably more than doubled in my lifetime. We are a people of widely divergent backgrounds and interests, inevitably divided into interest groups, factions and sects. We are geographically divided into fifty states, some relatively small and simple, some huge. New York and California, for example, have more people than nearly all of the members of the United Nations.

We are a country of paradoxes. We have, I believe, more freedom than any country in history, yet many of us are more concerned about our freedom than at any time in the past. We have great national wealth, widely spread, yet we also have great poverty in this country. The figures show that the average per capita income is higher now than at any previous time in history; and the number living in poverty is proportionately lower than any time before. Yet we are, I think, more concerned than ever before.

We have a beautiful country, filled with natural resources, which, in the past, we have squandered. We have an economy which is based on growth. Indeed, this has been a kind of religion of the economists. Some years ago, when I was on a Committee at the Brookings Institution, I asked in the course of our discussions: "What is so good about growth?" The shock that resulted was clearly discernible. It was equally clear that I made no converts. Yet most of our problems are the consequence of growth, of the rapid increase in our population, and the escalation of consumer demands. For years we have totted up the Gross National Product, with evident satisfaction, and without taking into account any of the negative factors involved, such as the costs which should have been incurred to control pollution. We have treated the air and the water and the soil and the beauty around us as inexhaustible. Now we know they are not. Fortunately, through our great governmental machine, we are beginning to do something about it.

But how do we go about doing something about this, or any other large scale problem? There is little, if anything, which is monolithic about our governmental structure. In the first place, we are divided into fifty states, and literally thousands of counties and cities and political subdivisions in those states. And this is good. There are things we do in Massachusetts which do not concern the people of Texas or California—and vice versa. Even in the states and subdivisions, we usually achieve results through representatives. The essence of our government, state and federal, is representing democracy. Thus the individual citizen is rather remote from decision making, though we should not forget that this is inevitable in a country as large as ours. The citizen has his opportunity to vote; and there are various ways in which he can make his voice heard. Whether he can bring about any change in results, however, depends on how many other citizens feel as he does. For we do believe, on most things, in majority rule. The thoughtful citizen understands this, and does not become frustrated when government does not go his way. Instead he works harder to find ways to bring about the result he wants—or accepts the majority's decision if he finds little likelihood that a change can be achieved.

We have a federal government, too, as well as state and local governments. And there are many difficult lines to draw between state and federal powers. Generally speaking, for example, the responsibility for the control of crime is with the states. Burglary and robbery, assault and battery, murder and manslaughter—including death on the highways—are state matters, with which our state authorities are struggling valiantly. But if you rob a post office, that is a federal crime, since the Constitution allocates post offices to the federal government. And if you rob a national bank or most state banks, that is a federal crime, too, since most banks are insured by the Federal Deposit Insurance Corporation, an organization which Congress has established in the exercise of its power to regulate interstate commerce, and to regulate the value of money.

Recently I had a case before the Supreme Court which involved the question whether "loan sharking" could be made a federal crime, without any proof that there was any effect on interstate commerce in the particular case. The case was a sad one. A young man had worked in a butcher shop for ten years. He decided to set up his own shop, and got off to a good start. He wanted to expand. He needed $2,000 to increase his inventory, and to put in shelves and counters. His credit standing would not enable him to get a loan from the bank, and the Small Business Administration said it was interested but that it would take six to eight weeks to process his application. At that point a friend said that he could get the money from Louey at the corner beer hall. So he went to see Louey, who said he would have to see his people, and shortly returned with the money. To make a long story short, after a few months, he had paid back $3,000 on the $2,000 loan and still owed $5,000. Threats were made to his wife and to him. He sold out his establishment at a heavy loss—and told the police. The defendant, who had made the loan to him, was prosecuted under the Consumer Credit Act of 1968—a section of the Truth in Lending Law, passed by Congress. In writing the statute, Congress had tied its action to its power to regulate commerce by including extensive recitals about the relation of loan sharking to organized crime, and the deleterious effect of organized crime on interstate commerce.

The defendant claimed that his crime was merely local, and that there was no federal power to make it subject to prosecution in the federal courts. He lost, and there was thus established a new area for the application of a basic federal power.

I have mentioned this case not only because it involves the division between state and federal power in our governmental system, but also because it illustrates another device we have used in an effort to make our government workable and fair. This is the separation of powers. More than any other governmental system, I think, we have allocated powers to the three branches of the government, and have maintained a rather firm separation between them. Indeed, in many respects the success of our system depends upon the extent that each branch of our government (a) meets the responsibilities assigned to it, and (b) refrains from undertaking to exercise responsibilities properly allocated elsewhere.

What has been called "the least dangerous branch" is the judiciary. The responsibilities of the judiciary are very great, and we properly pay it great respect. We look to the judges to see that trials are fair, and that constitutional guarantees and legislatively established procedures are maintained. But the highest courts of the states, and particularly the United States Supreme Court, have the further and high responsibility of drawing the ultimate constitutional lines, such as that involved in my loan sharking case. There we had an example of all three branches in operation. Congress made the law, exercising a considered judgment of the representatives of the people that the exercise of federal power in this area is desirable and necessary. This was peculiarly a legislative matter, a complex and difficult one, hammered out in the committees and on the floor of Congress.

The law having been made by Congress, it became the duty of the executive branch to seek to enforce it. Under the Constitution, the President has the duty "to take Care that the Laws be faithfully executed." When complaint was made to the police in New York, the executive branch, through the Department of Justice, moved into operation and started a prosecution, in the federal court, since Congress had expressly authorized that action. It then became the responsibility of the courts, ultimately the Supreme Court, to decide whether, under the Constitution, Congress had power to make such conduct a federal crime.

For our government to work effectively, all three branches must play their role. In many periods of our history, the judicial branch has been rather passive, acting only in narrowly circumscribed ways on the cases that come before it. At other times, as in the recent past, the judicial branch has seemed to be more activist, reaching out for new areas in which to operate, sometimes extending old precedents beyond what they were commonly understood to stand for. Some-

times, there has seemed to be a tendency for some of the courts to undertake general oversight over the whole government, to second guess officers of the executive branch in matters which would clearly seem to be of the sort which are properly allocated to the executive branch for decision.

Of course, executive officers should be kept within their proper limits. They are surely subject to the law and should be held to it. But executive officers have great responsibilities, particularly in these sometimes somewhat trying times. There is inevitably an ebb and flow in allocating the powers in this area. If there is something of an ebb in the assertion of judicial power at the present time, it is not clear to me that that is inconsistent with the course of history, and with the genius of our tri-partite governmental system.

But it is the legislative branch on which our interest focusses this evening. All federal legislative power is in the hands of 535 men in Washington, and we are gathered this evening to attest our friendship and respect for one of them. The task of Congress, and of Congressional leadership, is an awesome one. As I have sat on various boards and committees from time to time, I have often pondered about the process by which group decisions are made. It is hard enough to come to a conclusion in a group of five or eight or twelve. Think how difficult it is when there are 435 members in the House of Representatives—and they cannot function unless they can get the concurrence of a majority of the Senate, with 100 members, representing rather different interests. The wonder is, I suppose, that any legislative progress is made. And sometimes it is discouragingly slow. There are many problems in the organization of Congress, in its committee structure, in its time consuming procedures, and its failure to find a way to let the majority speak. Yet Congress is a deliberative body, and it is wise to see that there is ordinarily appropriate deliberation on the important matters that come before it.

Too many people forget too often that government is inevitably the resultant of many competing forces. On the legislative side, these are focused through Congress. On most questions, effective government can only be achieved through compromise. In a democratic government, many decisions are made with which many persons disagee, sometimes deeply. As we were long ago told, "Politics is the art of the possible." Or, as Winston Churchill wrote about his ancestor, the Duke of Marlborough, "The best obtainable was nearly always good enough for him." Very few people can be successful in politics if they are doctrinaire. Perhaps Charles Sumner, who represented this Commonwealth in the Senate a century and more ago, is an exception, but he served during an unusual period, and his recent biographer makes it seem unlikely that it would be wise for anyone to try to emulate him. One is reminded of the definition of a fanatic—he is doing what God would do if He only understood the facts.

If compromise is the essence of government, particularly on the legislative side, the caliber and the character of the people in Congress becomes of first importance. There is, of course, partisanship in Congress, and that is as it should be, for that is part of the process of reaching the consensus which Congress is expected to formulate. But most of the problems that confront the country are not partisan problems. They are real problems, directly affecting masses of human beings. There will always be differences of opinion about how to resolve these problems. But there should be few differences about the ultimate objective, which is a better, freer, cleaner country, in which every citizen has an opportunity to make his own way, freed at least from poverty and discrimination. In large measure our task is to establish national priorities, for we cannot all at once do all of the things that ought to be done.

On such questions we need men who can provide constructive leadership, men who can make moral and humane judgments. I know of no one who is better qualified to make such judgments than Father Drinan. It was a century and a half ago that Goethe said: "We hear many complaints about the growing immorality of our times, but I see no reason why anybody who wants to be moral should not be so all the more, and with all the more credit." I may not always agree with Father Drinan, but I will never doubt that in his heart he is on the right side. We can ask no more, of a man, or of a legislator.

Perhaps there is a time for me to do a little lobbying. I hope that Father Drinan will look with favor on President Nixon's welfare proposals, which are measures, I think, whose time has come. And then there is revenue sharing. Perhaps the President's proposals can be improved. No one asks a legislator to be a rubber stamp. But the basic scheme is one with great possibilities. Too long the states and the federal government have been fighting each other; this proposal will help them to work together. Finally, since Father Drinan is a member of the House Committee on Internal Security, I would ask him to do what he can to advance the bill which would repeal the provision of the McCarron Act, passed twenty years ago over President Truman's veto, which sets up detention camps in this country. This law has always been an embarrassment to the executive branch, as well as an affront to our citizens. The present administration has sought its repeal, and I charge Father Drinan, who is at least closer to the seat of power on such matters than any of the rest of us are, to bring it about.

There is much impatience in the land. Some of this is understandable. It is only human to want what you want and to want it now. To a considerable extent, the impatience is good, for it is a source of motive power, and that is always needed in a democracy. But the results in government are not produced by impatience. They are produced by people. Some of the problems are extraordinarily difficult. In the long run, however, they will be resolved only by the thought and effort of the people who work on them, and eventually by the votes of our representatives in Congress.

In a sense, I am sorry to see Father Drinan leave the law school world. He was an important figure there, not only for his teaching and scholarship and energy and enthusiasm, but because of his example, and his stimulation to his students to make themselves count. But in a larger sense, I am glad that he has gone to Congress. It is not that he is the first Catholic priest in Congress, though I welcome that, for it means the breaking down of a barrier which has divided us. It is not just that he is a law school dean who has made good in the larger world, though I welcome that, for I have long believed that American law schools should not be ivory towers. It is not just that he is a scholar in politics. We have room for that, and his scholarship will help. It is rather because of the kind of man he is, quite apart from his cloth. By this, I do not impugn the countless other members of Congress who are honest, upright, moral and humane. But to me, there is something very refreshing that Father Drinan is a member of our American Congress. I know that you join with me in tribute and respect to him, and in that deep warmth which comes when one salutes a friend.

May God be with you, Father Bob.

SALT TALKS

HON. MICHAEL J. HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. HARRINGTON. Mr. Speaker, the United States is today engaged in Strategic Arms Limitation Talks with the Soviet Union, aimed at deescalating the arms race. At least this is our public intent; our private interest is less discernible.

There is a growing realization that we are rapidly developing weapons systems while erstwhile espousing the cause of limitation. While preaching disarmament we are stoking our own fires.

Perhaps one of the finest attempts at analyzing this situation has been done by Samuel Orr in a two-part series for the National Journal. He focuses on how policy is developed for U.S. participation in the SALT talks as well as covering the issues involved and reaction to the administration's handling of the negotiations.

It is one of the most knowledgeable and in-depth accounts of the SALT talks to date and I recommend it to my colleagues.

PART I

DEFENSE REPORT/NATIONAL SECURITY COUNCIL NETWORK GIVES WHITE HOUSE TIGHT REIN OVER SALT STRATEGY

(By Samuel C. Orr)

The United States is tucking more systems into its nuclear weapons belt, while calmly talking with the Soviet Union about halting, or at least easing, the burdensome arms race.

This arm-while-you-talk policy is the handiwork of an elaborate apparatus created by the Nixon Administration to control U.S. participation in the Strategic Arms Limitation Talks with the Soviet Union.

The intermittent talks, now in their fourth round at Vienna, began 16 months ago.

Controversy: The U.S. policy-making machinery for SALT is oiled and operated by the White House through the National Security Council. The full-time engineer is Henry A. Kissinger, assistant to the President for national security affairs and NSC staff director.

Under the guidance of the complex NSC interdepartmental system, almost all aspects of the U.S. strategic weapons program would receive substantial increases under the proposed $76-billion defense budget for fiscal 1972.

Some arms-control supporters say that the Nixon-Kissinger policy jeopardizes chances of any meaningful agreement at SALT. They fear that continued arms escalation will generate countermeasures by the Soviets at a time when the two superpowers are roughly balanced in deterrent strength, and thus are in a good position to negotiate an arms limitation pact.

But Administration spokesmen defend the strategy as essential to keep pressure on the Soviets in the negotiations.

The United States, they say, is in danger of losing its superiority in weaponry and technology within a few years, and cannot unilaterally surrender any of its bargaining chips at SALT.

Administration officials also defend the NSC-dominated policy-making mechanism. They argue that it gives consideration to the viewpoints of all interested agencies—from the giant Pentagon to the tiny Arms Control and Disarmament Agency.

Development of the U.S. SALT policy is cited by Administration officials as a model of how the NSC system is supposed to work.

Because of the sensitive nature of the SALT talks, which are secret, few of those involved in the planning—past or present—would speak on the record in *National Journal* interviews. But, several talked on a not-for-attribution basis.

Stakes: A comprehensive arms-control agreement, limiting both offensive and defensive weapons, would sharply reduce pressure for spending on several major strategic weapons programs under development by the Pentagon.

Defensive—But the limited proposals being discussed at SALT thus far would curtail only the Safeguard antiballistic system (ABM) among U.S. programs. The Administration has begun deployment of Safeguard, which has an estimated cost of $11.9 billion.

The United States has offered to halt deployment of Safeguard, provided that any SALT agreement covers both offensive weapons and ABMs. The goal is a limit on the Soviets' powerful SS–9 missile, which can carry up to 18 warheads.

In line with its stated desire to go slow on ABM because of the negotiations, the Administration requested only $1.3 billion—a relatively small amount—for Safeguard in the fiscal 1972 budget.

Offensive—In the past year, the Administration also began deploying two major missile systems, the sea-based Poseidon and land-based Minuteman III, both having the controversial qualitative improvement known as MIRV (multiple independently targetable reentry vehicle).

The military services and their allies in Congress have resisted demands from arms-control advocates that deployment of MIRV warheads be stopped to avoid possible adverse effects at SALT.

The Administration also has begun work on two additional strategic systems, the B–1 bomber and ULMS, a submarine missile system. First described as hedges against the possible failure of SALT, the two systems are now defended by the Pentagon simply as replacements.

No SALT agreement has been considered that would preclude deployment of B-1 or ULMS. Both are now in the research-and-development stage and would be enormously expensive to procure in large numbers. The B-1 bomber program has an estimated price tag of $9.8 billion. The Pentagon has given no firm estimate of ULMS' ultimate cost.

Over-all scope—National Journal determined in January that nearly $68 billion remains to be appropriated for 52 major weapons systems, strategic and tactical, in various phases of development. About 100 other systems, also being planned, could add billions in development and procurement costs. (*For cost figures on the 52 systems, see No. 4, p. 170.*)

NSC SYSTEM

The White House holds tight control over U.S. participation in the SALT talks.

The NSC staff under Kissinger sits at the center of a complex interdepartmental committee system through which all preliminary analysis for SALT was coordinated. The day-to-day monitoring of the talks is closely tied to the NSC system. Changes in the basic, prearranged U.S. positions are cleared through the same structure.

In other areas bearing directly on strategic arms policy, the committee system has responsibilities for:

Review and articulation of broad policy, in documents like the President's Feb. 25 foreign policy message to Congress;

Review of Pentagon weapons plans and development of broad policy directives to guide Pentagon force planning;

Assessment of the Soviet threat.

The membership of the various committees, generally at the under secretary or assistant secretary level, includes considerable overlap among officials from the Defense Department, State Department, Arms Control and Disarmament Agency and Central Intelligence Agency.

To a large extent, the committees consist of the same officials wearing different hats. Structure: President Nixon moved early to revive the National Security Council as the formal mechanism for high-level review of issues requiring Presidential decision.

The NSC is composed nominally of the President and his Cabinet, with other policy-making officials sitting in when invited.

The council functions as a court of final appeal on military policy issues involving substantial disagreement within the government.

The distinctive feature of the NSC system under Mr. Nixon is the strong, independent role of the large NSC staff assembled for the President by Kissinger. The 110-member staff is the focal point for a multilevel structure of interagency committees and working groups reaching deep into the national security bureaucracy.

The committees are chaired by Kissinger or other NSC staff members and composed of a shifting cast of officials from the departments and agencies concerned. These groups meet at irregular intervals to review the work of lower-level working groups and staff analysts drawn from throughout the government.

Verification Panel—The focal point of NSC control over the U.S. position is the Verification Panel, which served as the central interdepartmental forum during the extended period while U.S. SALT positions were being worked out. The panel focused its analyses on how to verify Soviet compliance with an arms-control agreement and what dangers might come from Soviet cheating.

It continues to serve as the forum for preparing summary analyses of the pros and cons of possible shifts in the basic U.S. bargaining position.

The panel is chaired by Kissinger. Its meetings are usually attended by Gerard C. Smith, ACDA director and chief U.S. negotiator at SALT; David Packard, deputy secretary of defense; John N. Mitchell, Attorney General; John N. Irwin II, under secretary of state; Richard Helms, Central Intelligence Agency director (or Lt. Gen. Robert E. Cushman, Jr., deputy CIA director); and Maj. Gen. Royal B. Allison, Joint Chiefs of Staff officer for SALT and a member of the U.S. negotiating team.

Working group—Below the panel is the Verification Panel Working Group, which monitors the specific detailed analyses asked for by the panel, delineates the conflicting agency positions where they exist, prepares the initial summaries of the Verification Panel and assigns specific analytical tasks to staff analysts, or to special study groups and government offices with special expertise.

The chairman of the Verification Panel Working Group is *K. Wayne Smith*, Kissinger's chief deputy for analysis and former special assistant to Alain C. Enthoven, assistant secretary of defense for systems analysis under former Defense Secretary (1961–68) Robert S. McNamara (*For a report on the Systems Analysis Office, see Vol. 2, No. 49, p. 2643.*)

The Verification Panel Working Group is composed of the designated representatives of panel members (except Mitchell). The group's current members are Gardiner L. Tucker, assistant secretary of defense for systems analysis; Spurgeon M. Keeny Jr., ACDA assistant director for science and technology; Ronald I. Spiers, director of the State Department Bureau of Politico-Military Affairs; Gen. Marvin C. Demler, Joint Chiefs of Staff special assistant for arms control, and a CIA representative assigned on a rotating basis.

The Verification Panel Working Group often breaks down into ad hoc sessions during the development of an analytical effort, with the formal members frequently represented by designated subordinates, who can work full time on SALT problems. Tucker's special assistant for SALT, *Archie Wood*, and Col. Paul R. Von Ins, Gen. Allison's staff assistant, often sit in when their superiors cannot be present.

The detailed analyses of strategic weapons issues and SALT strategy and the written summaries of agency views are prepared initially by staff assistants of working group members or are farmed out to specialists in the various agencies, in particular the office of the director of Defense Department research and engineering, ACDA and the CIA.

Where the work is done and the level at which interagency coordination begins vary widely. Some basic policy papers are written by the NSC staff, while detailed technical assessments originate with the scientific staffs of the departments and agencies concerned.

Detailed analytical work on SALT issues is coordinated by Col. Jack Merritt, Wayne Smith's principal deputy on the NSC staff.

"Backstopping committee"—Day-to-day liaison with the negotiating team, clearing instructions to the delegation and deciding negotiating tactics, is handled by a so-called SALT "backstopping committee." Philip J. Farley, ACDA deputy director, is chairman, with Keeny acting as chairman in Farley's absence. Membership on the committee is basically the same as for the Verification Panel Working Group and includes Tucker, Demler and Spiers. The NSC is represented by *Helmut Sonnenfeldt*, senior staff member and an expert in Soviet affairs.

Much of the routine business of supporting the U.S. delegation at the talks is handled without formal meetings.

On occasions when developments at the talks raise the question of a basic change in policy, the issue is sent to the Verification Panel—and ultimately to the President—for decision.

Negotiating team—The U.S. negotiating team at SALT is headed by Smith. Other members are Paul H. Nitze, former deputy defense secretary (1967–69); Harold Brown, former director of defense research and engineering (1961–65) and Secretary of the Air Force (1965–69), J. Graham Parsons, deputy for SALT in the State Department's Bureau of Politico-Military Affairs, and Allison.

DPRC: Weapons systems and force requirements, which could have a bearing on the bargaining at SALT, are reviewed at a high interdepartmental level by the Defense Program Review Committee, a major component of the NSC structure.

Roles, composition—The DPRC, also chaired by Kissinger, is composed essentially of the same officials, at the under secretary level, who sit on the Verification Panel.

The WPRC is the forum for integrating Pentagon weapons plans into the Administration's broad policy objectives, including arms control efforts, and for relating the whole to the federal budget.

The DPRC serves the dual purpose of integrating high-level NSC review of the Defense Department budgetary process and of bringing Joint Chiefs of Staff officers directly into the process. The Joint Chiefs are represented at all levels of DPRC reviews and analysis. (*For more on the defense budget system, including the DPRC's role, see Vol. 1, No. 1, p. 9; Vol. 2, No. 49, p. 2642; and Vol. 3, No. 3, p. 166.*)

NSC analysis—The DPRC was organized late in 1969 in an effort to see that NSC guidance on Pentagon programs had the kind of detailed analytical base that SALT policy was afforded by the Verification Panel structure.

The DPRC was set up as a multilevel committee system similar to that of the Verification Panel. It includes several of the same people, with Wayne Smith coordinating the detailed analyses for NSC.

Intelligence: Most discussion about possible SALT agreements and, in theory at least, the rationales for U.S. weapons systems, derive from intelligence about the Soviets and other potential enemies.

Richard Helms is chief intelligence advisor to the President, by statute, and the CIA, which he heads, has primary responsibility for evaluation of intelligence.

CIA officials and analysts sit as members of all the NSC committees and study groups.

But evaluation of the evidence is an inexact science often colored by the differing missions of the agencies using intelligence. Fundamental to disagreements over policy and program rationales among the intelligence agencies are their differing evaluations of the threat.

USIB—In addition to the CIA, all other departments and agencies involved in national security affairs have some intelligence evaluation capability. An effort to reach a working consensus on what constitutes the basic threat is made through the U.S. Intelligence Board, chaired by Helms.

Other members of the USIB are Howard C. Brown Jr., assistant general manager, Atomic Energy Commission; Ray S. Cline, director of the State Department's Bureau of Intelligence and Research; Lt. Gen. Cushman, deputy director of CIA; Lt. Gen. Donald V. Bennett, director of the Defense Intelligence Agency; Vice Adm. Noel Gayler, director of the National Security Agency; and William C. Sullivan, deputy director of FBI.

USIB is charged with overseeing and coordinating the exchange of intelligence within the government, assigning intelligence gathering tasks, working out general priorities on collection of intelligence and supervising the preparation of National Intelligence Estimates.

Collection—Basic intelligence on strategic weapons comes from several sources.

The Air Force's National Reconnaissance Officer spends about $1 billion a year, principally on satellites that photograph in great detail designated areas of the Soviet Union and China.

This and other reconnaissance gives a fairly accurate count of missile silos (old or under construction), activities in Soviet naval shipyards and many other military activities.

Technical intelligence about the capabilities of Soviet strategic weapons is derived from a number of other sources including technical and military journals, reports about accomplishments of the Soviet space program, seismological monitoring of nuclear warhead tests, radar and visual monitoring of missile tests and analysis of the external configuration of weapons seen on parade or in photographs.

Between $5 billion and $6 billion is spent every year by the various agencies on the collection and evaluation of intelligence.

The AEC has primary responsibility for information about Soviet nuclear testing.

The National Security Agency, which employs over 90,000 persons, many of them military personnel from the security branches of the three services, spends nearly $1 billion annually monitoring radio transmissions and radar emissions around the world.

In addition, the CIA, State Department and the military intelligence operations bring together vast amounts of political intelligence from open and covert sources, including spies, defectors, foreign publications and statements by officials.

Threat assessment: According to NSC officials, all departments and agencies directly concerned with strategic weapons and policy have the technical expertise to evaluate the basic technical intelligence.

CIA—Although the CIA evaluates intelligence, it scrupulously avoids making policy recommendations.

Helms told the American Society of Newspaper Editors on April 14 that the CIA "can not and must not take sides." If he were to advocate a particular position, he said, those recommending another position would suspect "that the intelligence presentation has been stacked to support my position, and the credibility of CIA goes out the window."

DIA—Defense Intelligence Agency analysts coordinate work done directly for NSC through Col. John V. McLain, DIA special assistant for NSC matters.

ACDA—Technical analysis for ACDA, which does not collect intelligence and which does not participate directly in the USIB process, is carried out primarily in the Science and Technology Bureau, headed by Keeny. Before going to ACDA in March 1969, Keeny worked on strategic weapons issues at the CIA and then as a member of the NSC staff. His deputy, Sidney N. Graybeal, was a strategic weapons analyst at CIA.

State Department.—State Department analysis of strategic weapons intelligence is centered in the office of Strategic and General Research of the Bureau of Intelligence and Research, which has a direct role in the USIB process. The office is headed by Frank H. Perez.

Both Keeny and Perez played vigorous roles in the length process of analysis that went into the U.S. position at SALT.

Director of Defense Research and Engineering.—A particularly influential role in evaluating strategic intelligence and projecting the long-range threat is played by the Office of the Director of Defense Research and Engineering, headed since 1965 by John S. Foster Jr.

Foster is the principal technical adviser to Defense Secretary Melvin R. Laird. Foster's office has control over the military services' research and development money, reviews the services' research-and-development budget requests each year for Laird, and is the focal point in assessing the progress of weapons research and development programs under way.

According to Foster's chief deputy, Eberhardt Rechtin, the principal responsibility of the office is to guide the long-range direction of U.S. weapons programs and ensure that U.S. research and development programs are undertaken that will avoid a "military Sputnik" some time in the future.

"Our main worry is that the roof will fall in during the 1974–78 time period," Rechtin said in an interview.

Foster's office developed a strong independent threat-assessment capability and Foster has assumed a principal role in preparing the rationales for major research and development programs based on that capability.

The de facto role played by Foster's office in threat assessment has been formalized by Laird with the recent creation of a *"net technical assessment group"* within the Pentagon headed by Foster and assigned the responsibility of making detailed evaluations of Soviet weapons.

"Model system": Several top NSC officials said that the interdepartmental structure put together by Kissinger, in particular the Verification Panel, is, as one official put it, "a model process for analyzing issues for the President and putting everything on a firm, factual basis."

"It's important to emphasize that it is an analytical process, not a decision-making process," this official said. "We aren't hashing out a final consensus to present to the President for ratification, the way the system operated under Eisenhower."

CENTRALIZATION

On paper, the NSC committee system gathers the reins of power into the White House, with every issue and analysis rising through levels of synthesis, passing through Kissinger's hands and arriving on the President's desk as a clear set of options with the arguments for and against fully spelled out.

But NSC officials are quick to place their role in perspective.

Rather than subordinating the traditional departments and agencies, they say, the system ensures that conflicting agency positions are clearly laid out for the President and are not lost in a compromise negotiated at lower levels.

The NSC interdepartmental system has been clearly predominant in the articulation of broad policy goals in documents such as the President's foreign policy message. It has also dominated the Administration's SALT policies, but it has had a much less central role in decisions on U.S. strategic weapons programs.

NSC role: Administration officials questioned by *National Journal* generally agreed that centralizing SALT policy analysis in the NSC system has worked out well.

Views represented—According to NSC officials, the interdepartmental committees, such as the Verification Panel, are organized to ensure that views of the departments involved are fairly represented.

"The President has to know what his top advisers think," one NSC staff member said.

The major agencies in strategic weapons deliberations—ACDA, CIA and the Defense Department—are represented at all levels by officials with enough rank and staff resources to strongly represent their agency interests.

Kissinger's staff plays an important role in pointing the direction of analysis—by posing questions, challenging agency positions and structuring the summaries presented to the Verification Panel or other high-level groups. The NSC staff also has the primary role in writing the Administration's policy statements after decisions are made.

"If you have ever read any of Kissinger's books, you know who was behind the President's foreign policy message," one former Pentagon official said.

But, one NSC staff member said, "The system doesn't give anybody a veto, during the preliminary work or later. The top people can question anything that goes on and can back out of anything the lower-level people might have agreed to."

One high official said, "We don't have any illusions about standing astride the access to the President. The top people can and do make their views fully known in NSC meetings and the NSC system isn't the only channel open to the President."

Function—The NSC official said, however, that Kissinger and his staff "are not exactly intellectual eunuchs, mechanically balancing other people's arguments."

"Henry is the President's foreign policy adviser and he gives advice. So do a lot of other people," he said.

The kinds of analyses that are done, the way the choices are presented to the President and the NSC and the shape of the resulting policies inevitably reflect the biases of the President and his leading officials, such as Kissinger.

"Obviously, there's no such thing as pure analysis," one top NSC official said. *"The cliche is 'the assumptions drive the analysis,'* but the point of the kind of analysis the NSC has done is to make sure the assumptions are explicit, spelled out, understood."

SALT example—The detailed and protracted analyses that went into preparation of the U.S. positions at SALT are regarded by the officials involved as an example of the NSC system at its best.

Administration officials interviewed by *National Journal* agree that the Verification Panel system under Kissinger has dealt fairly with all sides in its analysis and summaries of issues for the President.

"Everyone had his day in court at every stage in the process," an ACDA official said.

"By trying to ensure that conflicting views were clearly represented, the system protected against things being forced into a simple-minded consensus."

A full hearing for ACDA in the highest policy councils has not meant that eventual U.S. policies have reflected ACDA's position on major SALT issues. As an example, the basic disagreement between ACDA and the Pentagon over whether a ban on MIRVs can be adequately monitored to prevent cheating, has been resolved on a number of occasions in favor of the Pentagon view that no MIRV ban is feasible.

Despite these occasional setbacks, another ACDA official said, "the system gives agencies like ACDA a full-fledged role in formulation of military policy, instead of treating them as appendages off to one side."

He added that the interdepartmental discussions have had an educational benefit.

"The fear of the unknown that generally makes top officials suspicious of arms control has been reduced. Just knowing what the technical pros and cons are may supply the confidence in the arms control approach that will be needed among high-level officials to get an agreement."

Differences: The Pentagon holds the edge when technical disagreements arise over current Soviet capabilities, the time frame for future Soviet technological advances, the technical problems of verification and other issues.

Here the relative technical analysis capabilities of the agencies involved in SALT policy come into play.

Resources—Officials involved in the analysis process acknowledge that the Secretary of Defense and Joint Chiefs of Staff have "almost limitless resources to call on," as one NSC staff member described it.

"They have the technical manpower and some very influential people," he said, "and, of course they have a lot bigger constituency than the other agencies, but this is all recognized. The important point is that it really doesn't do them that much good if their arguments are bad."

NSC officials describe the ACDA technical staff as small but very capable. An ACDA official emphasized that they were under no constraints in making their views known.

The total ACDA budget of $10 million is less than the cost of one of the new F–15 fighters emerging from the Pentagon research and development mill. But ACDA officials emphasize that they have no inferiority complex in evaluation of technical intelligence or other technical assessment issues.

Estimates—The National Intelligence Estimates prepared by the U.S. Intelligence Board are intended to be an agreed-upon summary of the range of possible future developments in Soviet weapons.

The estimates are seldom the last word for U.S. weapons planning or the development of rationales for those weapons.

The format of the estimates ("if the Soviets do this, then they may have x capability within y number of years") leaves a lot of room for interpretation. In addition, there is provision for carrying through disagreements over specific estimates in the form of footnotes.

Institutional biases—The different missions and perspectives of the offices contributing to threat assessment lead to differences in emphasis on what factors to emphasize in policy planning.

"Of course there are biases in threat projections, but they are well understood," one NSC official said, "Part of our job is to make sure all the positions are represented."

An ACDA official said, "Johnny Foster's office has responsibility for developing U.S. weapons technology and a reasonable case can be made for his insistence that he has to assume the worst possible, realistically possible, threat for planning purposes.

"We have different responsibilities and we tend to emphasize the improbability of the worst possible case."

The CIA, as the principal official evaluation agency, often is caught in the middle. Helms was called to appear in secret session before the Senate Foreign Relations Committee in April 1969, when committee members expressed skepticism about intelligence used by Laird in defending the Safeguard ABM and about Laird's claim that the Soviet missile deployments proved they were "going for a first strike," a claim not based on any agreed USIB assessment.

More recently, Sen. Henry M. Jackson, D-Wash., disclosed the discovery in satellite photographs of Soviet missile silos, which he said were larger than those normally associated with the largest Soviet ICBM, the SS–9.

Laird said in a New York speech April 21 that the new silos signal a whole new generation of giant missiles for the Soviets and that this "must be of major concern . . ." He said the United States might be forced to take unspecified "additional offsetting actions" to balance the Soviet activity, if the SALT talks fail to produce an agreement.

ACDA low profile—The high visibility of these and similar interpretations of the Soviet threat has led, according to ACDA officials, to private criticisms from arms-control advocates that ACDA should be doing more to publicize alternative viewpoints.

A top ACDA-SALT official told *National Journal* that Smith, Farley and the other ACDA participants in the SALT process decided in the beginning to try to influence Administration policy *from the inside*, without attempting to make their views public through friendly Members of Congress, the academic community or leaks to the press.

"The country has a military policy. Our role is to try to influence that policy," he said. "It was decided in the beginning that the quickest way to lose credibility and kill our effectiveness was to get involved in trying to build up outside pressure."

OUTSIDE ADVISERS

Strategic weapons policy is influenced from outside the government by a diffuse array of advisory committees, contract research organizations, academic consultants and scientific advisers.

Many of the current precepts guiding strategic weapons analysis and doctrine may be traced back through 20 years of academic theorizing and technological change.

Advisory committees: The President is advised on aspects of strategic weapons policy by a number of high-level committees of outside experts.

FIAB—The Foreign Intelligence Advisory Board is charged with reviewing operations of the entire U.S. intelligence community and suggesting ways to improve the collection and coordination of intelligence activities. The board is composed of nine leading businessmen and former government officials, including Gov. Nelson A. Rockefeller, R-N.Y.; Frank Pace Jr., former Secretary of the Army (1950–53) and retired chairman of General Dynamics Corp.; Edwin H. Land, founder of Polaroid Corp. The current chairman is retired Adm. George W. Anderson Jr., former Chief of Naval Operations (1961–63). The board has been given a formal role in the annual review of the Safeguard ABM program.

Scientists—A special panel on strategic weapons of the President's Science Advisory Committee reviews specific weapons research, when asked, and offers the President its opinion on whether they seem worthwhile. The Science Advisory Committee is headed by the director of the Office of Science and Technology, currently Edward E. David Jr., former scientist for Bell Telephone Laboratories. The committee's special strategic weapons panel *was disbanded in August 1970*, with the resignation of Lee A. DuBridge as OST director. David has not yet named a new panel.

The former strategic weapons panel was headed by *Sidney D. Drell*, assistant director of the Stanford Linear Accelerator Center, Standard University, Drell criticized the Administration's Safeguard ABM plans in congressional testimony last year.

ACDA committee—The General Advisory Committee for the Arms Control and Disarmament Agency is composed of a blue-ribbon list of former government officials, including former Secretary of State (1961–69) Dean Rusk; John J. McCloy, former Military Governor for Germany (1949–52), former president of the World Bank (1947–49) and arms control adviser to President Kennedy; Cyrus R. Vance, former Deputy Secretary of Defense (1964–67), Secretary of the Army (1962–64) and deputy chief negotiator at the Paris Peace Conference on Vietnam (1968–69); and William C. Foster, first director of the Arms Control and Disarmament Agency (1961–69).

The group proposed in March 1970 that the President seek at SALT a freeze by both sides on the deployment of new weapons, including MIRV *and improved* surface-to-air missiles.

On several occasions the group has advised the President that the United States should abandon its insistence that a MIRV ban requires on-site inspection and should seek an agreement halting testing and production of MIRV systems.

Committee members have taken an increasingly active role in public criticism of Administration SALT policy. One member, Foster, has been advocating publicly in recent months a total ban on nuclear weapons testing, a complete band on ABM deployment, production and testing and a ban on MIRV testing.

None of these suggestions has been accepted.

Pentagon advisers: Each of the military services supports a scientific advisory board of defense-oriented scientists to advise on weapons research and development.

Science board—In addition, the Defense Science Board, currently headed by *Gerald F. Tape*, performs in advisory function for the Secretary of Defense and the director of defense research and engineering.

Tape is an academic physicist and former Atomic Energy Commissioner (1963–69).

The board has had a continuing role in reviewing the Safeguard program and has been asked for opinions on a number of other programs currently under development, including the Army's Hardsite ABM concept, to which the board gave high priority in a 1969 review.

Consultants—Countless academic scientists and industry researchers and engineers consult on a full- or part-time basis with offices throughout the Pentagon. In addition, the Pentagon and the services support a long list of contract research organizations for both policy analysis and technical research and development.

The most prominent of these is the Rand Corp. of Santa Monica, Calif. Former Rand associates are scattered throughout the government and the academic community. *Richard Latter*, a long-time Pentagon consultant from Rand, a member of the Defense Science Board and a principal figure in developing the Safeguard ABM, is serving as a technical adviser to the U.S. delegation at SALT.

O'Neill panel—The efforts of a group of scientists, called together by John Foster to review the Safeguard plans for fiscal 1971, offer an example of the role those advisory groups play in strategic weapons policy.

The panel of seven scientists, called the Ad Hoc Group on Safeguard, was headed by Lawrence H. O'Neill, president of the Riverside Research Institute in New York and a professor at Columbia University. The panel

was selected by Foster to include scientists who favor and scientists who oppose Safeguard.

Foster asked the group only to comment on the technical capability of Safeguard to meet the Soviet threat as projected. It was asked specifically not to consider strategic, political or diplomatic factors.

After three days of Pentagon meetings, the panel reported it felt Safeguard was adequate for the "thin" area defense missions in its rationale, but that if the primary mission were to protect Minuteman, the Pentagon should move ahead quickly on the Hardsite concept.

This qualified endorsement was later cited by Foster in congressional hearings as endorsement that the Safeguard system could "do the job the Pentagon wanted it to do." The assertion led Sen. J. W. Fulbright, D-Ark., Foreign Relations Committee chairman, to charge that the panel's conclusions had been distorted to provide "window dressing" for Safeguard.

The charge of window dressing was also raised about the President's Advisory Committee on Strategic Weapons, which passed on the Safeguard plan after a meeting with Foster March 17, 1969, three days after Mr. Nixon announced his ABM decision. Defense intellectuals: Kissinger came to prominence in the closed world of the so-called "defense intellectuals," academic theorists whose influence has been immense on the rationales behind deterrence strategies, if not on the actual course of weapons development.

Among the most prominent of these theorists and writers on weapons strategy are Thomas C. Schelling, a Harvard professor; Herman Kahn, director of the Hudson Institute; Albert Wohlstetter, professor at the University of Chicago; and Donald G. Brennan, Hudson Institute staff member. They consult regularly with Pentagon and other government officials and testify frequently before congressional committees.

Kissinger himself wrote prolifically on strategic weapons issues and NATO policy while a Harvard professor and served as consultant, at various times since the late 1950s, to the Pentagon and ACDA, and to the National Security Council during the Johnson Administration.

CRITICISM

The Administration's machinery for producing national security policy is not universally admired.

A former high-level scientific adviser to the Pentagon, who asked not to be named, said in an interview:

"The most important thing is whether the system really confronts its own biases and produces truly objective assessments of the relative risks involved between a something-less-than-foolproof arms-control agreement and a continuation of the arms race into a new era of particularly threatening and costly technology.

"I don't think the NSC debates have done this; but even worse, a lot of dubious military hardware is being justified in the name of arms control—bargaining chips, as they're called—and the public has been softened up for blaming it on the Russians if the talks fail."

ABM villain: A number of the Administration's critics point to the decision to deploy the Safeguard ABM as a principal source of subsequent inhibitions on U.S. SALT policy.

The Nixon Administration inherited an ABM program, the Sentinel, when it came into office, as well as a rising groundswell of opposition in Congress and the scientific community to the ABM concept. It was also faced with Army proposals for expanding Sentinel.

Stone—Jeremy J. Stone, head of the Washington office of the Federation of American Scientists, said that the Administration decision to go ahead with its revised version of Sentinel, renamed Safeguard, has vastly complicated all subsequent thinking on arms control and strategic weapons.

Stone said the Safeguard ABM concept has been very costly politically because its rationales emphasized the vulnerability of Minuteman missiles. The Administration was emphasizing the vulnerability of one weapon, Minuteman, to help sell Congress on the idea of another, Safeguard, he said.

Scoville—The projections of the threat to Minuteman that the Soviets could be capable of posing by the mid-1970s, which are the basis for Safeguard deployment, have been central to most subsequent SALT analysis, in the view of Herbert Scoville Jr., a leading critic of Administration strategic weapons policy and a former assistant director for science and technology for ACDA. Scoville left ACDA in the early months of the Nixon Administration.

Scoville said that many of the arguments offered by the Administration in explanation of strategic weapons policies are familiar to long-time participants in strategic weapons debates and represent the *"predominance of Johnny Foster's shop."*

Blitz: Scoville said that Foster and other weapons experts viewing strategic weapons "as essentially a series of technical problems to be solved" prevailed in the early months of the Administration debates because they used strong and imaginative projections of weapons advances the Soviets are technically capable of making.

These projections of a possible Soviet threat were derived in part from new intelligence about Soviet SS–9 deployments and multiple warhead testing.

According to Scoville, "The basic problem with new intelligence is that it is easy to have differing points of view about what it implies. One can construct quite plausible, highly technical interpretations and, even inadvertently, overwhelm people for whom the intelligence and the arguments are somewhat new."

Scoville thinks that technical assessments are getting a much more skeptical look in Administration debates now.

Effects: One former ACDA official says that the assigned role of the Verification Panel and the pressures that led to its formation—dissatisfaction with the earlier treatment of verification problems and the possible dangers from Soviet cheating—have served to reinforce the technological, "worst case" approach to strategic arms problems at the expense of other, softer arguments.

"On the one side there is given a strong, not totally unrealistic technical argument emphasizing what they (the Soviets) could do if they wanted. On the other is the argument, perhaps in equally technical terms, which says, 'well, maybe it is possible, but it is highly improbable,'" he said. "The current system seems to me to favor the first way of thinking."

NSC officials say that projections of what the Soviets are technically capable of doing within a given time frame have to be the primary basis for prudent policy making.

The President's Feb. 25 foreign policy message says the existing military balance "does not permit us to judge the significance of Soviet actions only by what they say—or even what we believe—are their intentions. We must measure their actions, at least in part, against their capabilities."

Yardstick—The principal measuring rod for interpreting intelligence about Soviet weapons is what is known, for example, about missile accuracy or silo hardness, from U.S. experience.

This is the argument frequently used by Foster and other Pentagon officials to bolster their case for continued heavy expenditures in weapons research and development.

Rebuttal—Scoville and others, including Herbert York, former director of defense research and engineering (1958–61), and self-described longtime "participant in the arms race" now turned opponent of Safeguard, say that measuring Soviet capability by U.S. experience can create a self-contained action-reaction cycle within U.S. weapons development, which may bear only indirectly on actual Soviet progress and contributes to a self-generated arms race.

One former top Pentagon analyst notes that the NSC interdepartmental committee system "probably serves the President well to the extent that it makes sure that everyone is arguing about the same things."

"But in strategic issues, it's very dangerous if the interdepartmental coordination serves to give all arguments a kind of artificial equality," he adds.

"This is particularly important in arms control issues because some of the crucial variables are not really susceptible to qualitative analysis or even perhaps to fully articulate expression on paper.

Scoville says that this is a basic danger deriving from the rise of "worst case" technical analysis to the position of primacy in arms-control policy making.

"What's needed is a President with the inclination to challenge all the technical gobbledygook and say 'Well, why is that important?'" Scoville said. Limited options: Several factors have joined, in the view of some critics of Administration policies, to produce an overly cautious, limited view of the choices available on strategic weapons questions.

One former Pentagon systems analyst says that the original ABM decision was made on the basis of options and arguments that really left little choice.

The inherited Sentinel system was already well along, with production engineering already under way and 7,300 employees of prime and first level subcontractors already working. In addition, nearly $6 billion had already been spent since 1958 on developing ABM technology and the Army was wholly committed. These factors and the strong arguments demonstrating the potential Soviet threat made killing ABM an unlikely choice.

The choice of expanding Sentinel was challenged as a destabilizing move in the strategic weapons balance and as being too expensive.

Support of the basic Safeguard concept, primarily the work of Foster, was widespread.

Other ABM concepts, such as the Hardsite concept of strong silo defenses, were not offered as short-range options.

The President's foreign policy message, in discussing the broad alternatives studied for NATO deterrence, presents a similar limited set of choices: "reliance on conventional forces alone; early response with nuclear weapons; a flexible strategy that does not preclude or force either kind of response."

The Pentagon and the NSC analysis structure have been directed to study the means of implementing the third choice.

Choices known: NSC officials say that the system serves the President well. They emphasize that the President has a strong personal interest in strategic weapons issues.

"The President gets detailed papers on these issues," one NSC staff member said. "None of those one-page summaries you hear about in other areas."

One ACDA official said that Kissinger is a "powerful source of continuity in arms control debates" and that he has placed particular emphasis on having all sides fairly represented.

A former NSC staff member who participated in the SALT preparation process told *National Journal,* "If it turns out that the Administration is not taking the right approach to SALT, it won't be because alternative courses weren't known."

KISSINGER: MASTER STRATEGIST

Henry A. Kissinger, 47, assistant to the President for national security affairs, is a

powerful and controversial figure in the Nixon Administration.

Many in Congress, the press and the public believe—rightly or wrongly—that he and his staff wield more influence in the making of foreign policy than the State Department or the Pentagon.

Kissinger's role has been criticized because his power is not balanced by accountability to congressional committees. He has been the key figure in the Administration's revival of the National Security Council.

Academic background: Kissinger established himself academically by elaborating a refinement of the balance-of-power approach to diplomacy. In 1957 he criticized the "massive retaliation" doctrine of the Eisenhower Administration, and argued instead for developing a flexible capability to fight limited nuclear or conventional wars.

Kissinger taught at Harvard University from the time he received his doctorate in 1954 until December 1968 when he was designated as Mr. Nixon's national security adviser. (In January 1971 he resigned from the Harvard faculty to remain at the White House.)

Consultant: While at Harvard, he held advisory positions in the foreign policy establishment, including posts with the Joint Chiefs of Staff (1956-60), and the Arms Control and Disarmament Agency (1961-68). He advised Presidents Eisenhower, Kennedy and Johnson in a personal capacity. He also directed foreign policy studies for the Rockefeller Brothers Fund and the Council on Foreign Relations. He was foreign policy adviser to Gov. Nelson A. Rockefeller of New York during his unsuccessful campaign for the Republican Presidential nomination in 1968.

Kissinger is the author of three books on U.S. foreign policy and defense strategy.

Nixon Goals: Strength and Stability

President Nixon spelled out the Administration's approach to strategic forces planning in his Feb. 25 foreign policy message.

Mr. Nixon said that while he is committed to keeping strategic forces strong, "I am equally committed to seeking a stable strategic relationship with the Soviet Union through negotiations."

He added: "There is no inconsistency between these goals; they are in fact complementary."

World view: The President's message repeatedly reaffirms the U.S. commitment to act as peacekeeper in a world where the United States and the Soviet Union, as the two most powerful nations, "conduct global policies that bring their interests into contention across a broad range of issues."

Linkage—The President emphasized in a number of contexts that the basic aim of U.S. policy is to demonstrate to the Soviets that they should not be tempted into "bolder challenges" as their strategic power approaches parity with that of the United States.

The President cited the Soviet Union's policy in the Middle East and its naval exercises in the Caribbean as examples of policies and actions that, in his view, may stem from a Soviet "failure to appreciate the risks and consequences of probing for advantages or testing the limits of toleration."

Adm. Thomas H. Moorer, chairman of the Joint Chiefs of Staff, carried this argument a step further in March 10 testimony before the House Armed Services Committee.

"We will pay a very high price in the effectiveness of our diplomacy if we permit the Soviet Union to achieve a clearly evident strategic superiority, even were that superiority to have no practical effect on the outcome of an all-out nuclear exchange," Moorer said.

Carrot and stick—In the President's estimate, U.S. and Soviet strategic forces have reached a level of rough parity that affords a basis for structuring a stable balance of power between the two superpowers.

The President's message held out the promise of accommodation through SALT and other negotiations—on Berlin, force reductions in Europe and mutual efforts to reach stability in the Middle East. At the same time, U.S. policy embraces a steady buildup of new weapons.

Most of the major research and development programs in the new Pentagon budget would receive substantial increases in proposed funding for fiscal 1972. Pentagon witnesses at several congressional hearings argued last year that spending on Safeguard ABM, the B–1 bomber, the Navy's new ballistic missile submarine and deployment of multiple independently targetable reentry vehicle (MIRV) warheads on the Minuteman and Poseidon missiles all give added credibility to the President's foreign policy efforts. (*For a summary of the fiscal 1972 defense, budget, see No. 6, p. 290.*)

The threat: The Administration is confident that U.S. forces are designed to conform to the nation's policy of nuclear stability. This confidence is coupled with doubts about Soviet intentions.

"Soviet deployments make us uncertain whether the USSR has made a similar national commitment to strategic equilibrium," the President said in his foreign policy message. "By any standard, we believe the number of Soviet strategic forces now exceeds the level needed for deterrence."

Flexible response: Defense planners fear that a strengthening of Soviet strategic forces will weaken any deterrent effect that U.S. strategic forces have on Soviet military moves that might trigger a nuclear exchange.

This link between strategic forces and possible Soviet boldness is of particular concern in North Atlantic Treaty Organization planning, where ensuring the credibility of the U.S. pledge of its strategic forces has been a central problem since NATO was formed.

President Kennedy in 1961 had characterized the situation as a "choice between humiliation and all-out nuclear action."

Similarly, Mr. Nixon said in his message: "No NATO leader should be left with the choice between capitulation and immediate resort to general nuclear war."

Development of U.S. SALT Position

The U.S. negotiating position at the Strategic Arms Limitation Talks is the product of lengthy deliberations that have gone through several phases since the Nixon Administration began.

Groundwork: The SALT talks were slated to begin in August 1968, during the Johnson Administration. But they were postponed when the Soviets invaded Czechoslovakia a few days before the scheduled opening session. (*For details of events leading to SALT, see Vol. 1, No. 3, p. 136.*)

A U.S. position calling for a ban on ABM systems had been prepared by an ad hoc group in the Office of the Defense Secretary. According to a former Defense Department systems analyst, who declined to be quoted by name, there was little interdepartmental coordination or special analysis of that original proposal.

Internal Pentagon disagreement over the Administration's decision in 1967 to proceed with an ABM, the Army's Sentinel system, was the impetus for an ABM ban.

Nixon reassessment: At the start of the Nixon Administration a wide-ranging reassessment of U.S. policy was initiated. The SALT talks were delayed further.

An early National Security Strategy Memorandum directed the Arms Control and Disarmament Agency to study SALT options. A group was then set up, headed by Philip J. Farley, ACDA deputy director.

The ACDA study produced four possible combinations of limitations on offensive and defensive weapons, and presented arguments about the risks and benefits of each.

The President gave the go-ahead in June 1969 for U.S. participation in the talks, which began the following November.

Verification Panel: Henry A. Kissinger, assistant to the President for national security affairs, organized a Verification Panel in the early summer of 1969 to prepare for the upcoming talks and to study arms control issues on an interdepartmental basis.

Laurence E. Lynn Jr., formerly with the Pentagon Office of Systems Analysis, directed Verification Panel analysis as chairman of the Verification Panel Working Group.

Lynn's principal deputy as coordinator of working level analysis was *Walter B. Slocombe.* Slocombe and his assistant, *R. James Woolsey,* were both alumni of Pentagon systems analysis.

Analysis—The National Security Council directed a thorough study of SALT options by the Verification Panel, focusing on a detailed technical assessment of the problems of verifying compliance with each of a number of possible agreements. Special attention was directed to "lead time" problems—assessing what threats might be posed to the U.S. deterrent from the lag in time between the discovery of cheating by the Soviets and the deployment of a U.S. response.

Various ways of limiting each of the categories of strategic weapons—bombers, land-based missiles, sea-based missiles and defensive systems—were studied in light of the NSC directive.

Post-talk studies—Studies by the Verification Panel were the basis for initial probing and preliminary discussions with the Soviets at the first round of SALT talks at Helsinki in November 1969.

After the Helsinki round and throughout the winter of 1970, the Verification Panel system inaugurated so-called "Task Y" studies of specific arms control options, based in part on an assessment of Soviet views gained at the first talks.

Twelve major studies of arms control problems were made. Specific questions were studied in a number of ad hoc interagency groups.

Several technical studies, concerning in particular the "leadtime" question, were farmed out to Pentagon offices. The process was coordinated by a SALT backup group composed of officials from the Joint Chiefs of Staff, Defense Research and Engineering, Systems Analysis and other offices. They were supported by analysts from the Rand Corp. and other research firms.

The analyses were subjected to challenge where disagreements arose over interpretations of Soviet capabilities, the difficulties of detection, the probability of cheating and a number of other issues.

"Building blocks"—Seven different packages with variations of possible combinations of offensive and defensive weapons were readied for the second round of the talks, which began in Vienna in April 1970. The arguments within the Administration on the risks and benefits of each of the options were summarized, further refined in sessions of the Vertification Panel itself and passed up to the NSC.

These options, called "building blocks," give flexibility and coherence to U.S. positions at SALT, since, in the Administration view, they can be combined or reordered in different clusters or combinations to give alternative proposals, with the risks and benefits of each worked out beforehand.

This allows quick response to Soviet moves at SALT because substantive elements of policy have already been worked out within the Administration. It also minimizes bureaucratic jockeying over each new point as the negotiations progress.

Lynn, Slocombe roles: NSC officials, past and present, credit Lynn and Slocombe with major roles in pushing through the kinds of studies wanted by Kissinger.

"They kept the working level people doing good analysis," one former NSC staff member said. "They ensured that there was no falling off into rhetoric and, probably most important, they made sure all sides were treated fairly."

The studies were drawn together in a "some believe, others believe" format, according to one participant in the process. Many of the longer studies were summarized for the Verification Panel. The whole was refined into a series of options for the NSC and the President. The resulting options remain the basis for U.S. policy on SALT.

Lynn, Slocombe and Woolsey all have left the NSC. Lynn, who is on the faculty of the Stanford Graduate School of Business, still serves as a consultant. Lynn was nominated April 21 to be an assistant HEW secretary.

PART II

DEFENSE REPORT/SLOW PACE OF SALT NEGOTIATIONS PROMPTS PROPOSALS FOR CHANGE IN U.S. POSITION

(By Samuel C. Orr)

The Nixon Administration is under increasing pressure to shift its basic negotiating position at the Strategic Arms Limitation Talks with the Soviet Union.

With the nuclear arms race showing little sign of abatement, several Democratic Senators have joined influential scientists in suggesting that the United States be more conciliatory toward an ABMs-only agreement proposed at SALT by the Soviets.

Under the Senators' proposals, an ABM agreement would be tied to a freeze on offensive weapons while the talks continue. The Administration has been adamant that any agreement must cover both offensive and defensive weapons systems.

Congress generally has had little to say about SALT bargaining strategy, although two-thirds of the Senate would have to ratify any treaty resulting from the talks. The slow pace of the negotiations has spurred Members to seek ways of removing stumbling blocks to an agreement.

SALT issues: The overriding U.S. aim since the talks began in November 1969 has been an agreement that would limit the Soviet Union's powerful SS–9 missile.

This aim and the basic U.S. negotiating strategy at SALT are products of an elaborate interdepartmental committee system established under the aegis of the National Security Council.

The system centralizes SALT issues in the Verification Panel, which is headed by Henry A. Kissinger, assistant to the President for national security affairs and staff director of the NSC.

The Administration has used this complicated machinery to grapple with the complexities involved in negotiating arms control limitations.

One of the most intricate problems concerns the difficulty of verifying Soviet compliance with any ban on the deployment or testing of multiple warheads.

The Administration has begun deploying a sophisticated multiple warhead system (MIRV) on its land-based Minuteman and sea-based Poseidon missiles.

Meanwhile, the United States has refused at SALT to pursue a MIRV limitation because of the verification difficulties involved.

Opposition: The Administration's SALT strategy is challenged—in Congress and among the President's critics in the scientific community—as exaggerating the verification problems, as risking the long-term advantages of an ABM agreement in trying to get an offensive weapons agreement that will solve few problems, and as rationalizing the continued deployment of U.S. weapons, such as MIRV and ABM.

Arms control advocates argue that an agreement which does not cover MIRV systems would not be meaningful and that continuing U.S. deployment of MIRV missiles may have jeopardized the chances of getting a ban on MIRVs at SALT. But they maintain that the future stability of the arms race requires renewed efforts to get a ban on MIRV weapons.

Secrecy: By agreement with the Soviets, details of the negotiations are secret. But much of the substance has been reported in the press. And the President, in his Feb. 25 foreign policy message, gave a general account of what has happened and his interpretation of what the issues are.

The U.S. aims and negotiating strategy clearly reflect the doubts about Soviet intentions that are expressed throughout the President's message.

They also reflect an acute sense of the threat that the SS–9 and other Soviet missiles might pose to the United States.

Because of the sensitive nature of the talks, and the protective secrecy surrounding them, few of the officials involved in making U.S. SALT policy would speak for attribution in *National Journal* interviews.

NEGOTIATING STRATEGY

The Administration's cautious, step-by-step approach to SALT calls for continuing major U.S. weapons programs while positions incorporating basic U.S. aims are being presented at the talks.

Leverage: U.S. weapons programs, in particular the Safeguard ABM, are defended by the President as supplying needed incentive for the Soviets to negotiate seriously. The programs have regularly been defended as essential bargaining chips in the overriding aim of negotiating a halt in the deployment of the Soviet SS–9 missile.

Administration officials questioned by *National Journal* defended the *bargaining chip notion* strongly, arguing that Safeguard complicates the targeting problems for Soviet planners who might be considering a first-strike policy and that it signals to them that it will be very expensive for them to try.

The alternative of negotiating should appear more desirable to the Soviets, in this view, if the United States demonstrates its willingness to respond with weapons of its own to any continued deployment of Soviet weapons.

Bargaining: Administration officials also offer the argument that it is simply bad negotiating strategy to give up something unilaterally during a negotiation.

Signals: The President, in his foreign policy message, emphasized that the United States has tried to signify its interest in stability in the strategic balance through the defensive intent of the new systems coming into the U.S. arsenal.

Officials say the United States has no new offensive missile, has not expanded the number of Minuteman sites or Polaris/Poseidon submarines, does not have the combinations of yield, accuracy and total numbers of warheads—even in its MIRV (multiple independently targetable reentry vehicle) system—to launch a first strike, and has tailored the Safeguard ABM to emphasize its stabilizing effects on the arms race.

A senior NSC staff member acknowledged, however, that any prudent Soviet planner would have to assume that the United States could acquire the capacity for a first strike.

"That's all the more incentive for him to negotiate, just the way we're trying to negotiate away their first strike threat," he said.

Caution: NSC officials say another general view guiding U.S. bargaining at SALT is the need to approach the talks with caution and a realistic assessment, reached after preliminary discussions with the Soviets, of what kind of agreement can be expected to emerge.

"You don't start out in any negotiating situation by putting all your cards on the table," one NSC official said.

First things first—This has led to a negotiating strategy that emphasizes strict focus on achieving the minimum short-range U.S. aims, the principal one being a limit on the Soviet SS–9 missile, and leaves complicated secondary options until later.

This is a principal reason offered for not responding to the Soviet desire to include in the current talks the U.S. fighter-bombers based in Europe and on carriers in the Mediterranean.

Administration officials feel these weapons should be discussed in negotiations on mutual force reductions in Europe, along with Soviet missiles targeted on Europe.

Other possible areas of agreement—on antisubmarine warfare systems, or antisatellite systems—are not on the agenda, and the extremely complicated process of negotiating mutual reductions or controls on specific kinds of weapons has been given secondary priority in the U.S. proposal for a general ceiling on all offensive weapons.

Rejected measures—In addition, to maintain pressure behind the basic U.S. aims, the Administration has rejected several interim measures. Consideration was given at various times by the Administration to moratoriums on all deployments of new strategic systems, on MIRV deployments and on ABM deployments, pending the outcome of the formal talks.

ARMS CONTROL OPTIONS

The Administration studied during preparations for SALT—and has reconsidered at various times since—a wide range of approaches to controlling strategic weapons.

Offensive and defensive weapons each present different sets of problems, and the problems are complicated by the numerous possible combinations of different approaches to limiting offensive or defensive weapons.

Actual negotiations are made more difficult by the basic assumption in arms control discussions that no agreement is viable unless compliance with its terms can be verified by both sides independently.

Disparities: The differences in the strategic forces of the United States and the Soviet Union further complicate negotiations.

The United States has many more bombers and ballistic missile submarines. The Soviets have deployed larger numbers of ICBMs and the large SS–9 missile, for which the United States has no counterpart. The Soviets have a limited ABM system around Moscow, while the United States is just starting deployment of the Safeguard system.

The U.S. lead in every significant area of strategic weapons technology—missile accuracy, reliability and retargetability; multiple warheads; solid-fueled rockets, and a wide variety of advances in penetration aids for bombers and missiles—further complicates negotiations.

The Administration's pre-SALT analysis produced several alternative approaches to SALT, joining combinations of offensive and defensive limits, with each containing a number of variables in certain details.

Gross ceiling: Limiting offensive weapons presents problems both in agreeing on the form of the limitations and in satisfying strong concerns about the possibility of undetected cheating, a particular worry for the Pentagon.

One approach to offensive limits is to settle on the number of delivery vehicles—missiles and bombers—each side will be allowed to have, without setting limits on each category of weapons.

Within this gross ceiling, bombers, for example, could be replaced by missiles, or land-based systems, by ballistic missile sub-

marines. Also, old weapons could be replaced by newer ones.

Negotiating a gross ceiling is considered relatively easy, once both sides are agreed on what weapons on each side constitute strategic weapons. But setting a ceiling leaves a number of problems unsolved.

Improvements in existing systems, in particular, the addition of MIRV warheads of increasing accuracy, would be permitted. Replacing old systems with more advanced ones would continue.

Pressure for ways to preserve land-based systems in the face of increasingly accurate MIRV warheads could result in expensive efforts to "super-harden" missile silos or deploy mobile ICBMs, which make accurate verification of the agreement difficult.

Categorical ceilings. Another approach to limiting offensive weapons is to negotiate a ceiling for each category of weapons—ICBMs, bombers and submarines—with no allowances for changing the mix.

The asymmetries between U.S. and Soviet forces complicate this kind of approach. One suggestion under the approach is to allow the Soviets to build an agreed-upon number of additional missile submarines, while the United States agrees to eliminate some of its bombers.

In another variation, large missiles such as the SS–9 would be distinguished from smaller missiles, like the Minuteman and the SS–11, with ceilings for each.

The categorical approach helps avoid the problems of large numbers of more effective new weapons being substituted for obsolescent weapons, missile for bombers, for example. But qualitative improvements such as MIRV would still be allowed, as well as new generation improvements in existing systems.

Freezes: Another approach to limiting offensive weapons would be an agreement by both sides to freeze the stocks of strategic weapons at existing levels.

The freeze might either permit or restrict improvements to existing systems—such as adding MIRV. These improvements are difficult to detect in any case.

The differences between U.S. and Soviet arsenals make negotiating a permanent freeze difficult, and there is strong Pentagon opposition to halting the U.S. MIRV programs. Allowance would have to be made for the Soviet submarine program, and the United States would have to accept the Soviet lead in land-based missiles.

Short-term freezes on deployments or on deployment and testing of new systems have been proposed several times over the last two years, generally with the freeze tied to achieving formal agreement in further negotiations.

ABM limits: The feasibility of any limits on offensive weapons requires a complementary defensive ABM agreement in the long run.

Without ABM limits, controls on offensive weapons, whether ceiling or freeze, could give impetus to efforts to expand or upgrade ABM systems. In the end, this could upset the strategic balance by eroding the effectiveness of offensive missiles.

In addition, a ABM agreement would remove the primary potential threat to the effectiveness of each country's submarine-based missiles, an increasingly important goal as missile accuracy makes land-based systems more vulnerable.

MIRV complications: Highly accurate multiple warheads are within technical reach of each side. Current argument centers mainly on how soon both sides can have warheads capable of knocking out land-based missiles in their silos with a high degree of effectiveness, regardless of efforts at further hardening the silos.

Soviet missiles—U.S. planning had been based since early 1969 on the estimate that the Soviets could have the capacity by the mid-1970s to knock out 95 percent of U.S. Minuteman missiles.

This projection of Soviet capabilities assumed 420 SS–9 missiles, each carrying three highly accurate warheads. It was based on Soviet testing of multiple warheads observed by U.S. intelligence and the extrapolation of the rate of SS–9 deployments since 1965.

The Pentagon announced a slow-down in deployments of SS–9 missiles last December. Persistent press reports over the past year, never confirmed by the Pentagon, have stated that no new starts on SS–9 missile silos were discovered between August 1969 and July 1970. The Pentagon estimate of the number of SS–9s deployed or under construction has fluctuated between 275 and 300.

Sen. Henry M. Jackson, D–Wash., recently disclosed that new Soviet silos have been discovered under construction. The new silos are larger than those generally associated with the SS–9.

Defense Secretary Melvin R. Laird told the American Newspaper Publishers Association on April 21 that the new silos indicate the Soviets have launched "a new—and apparently extensive—ICBM construction program."

A slowdown in SS–9 deployments, if not offset by deployment of a new missile, would stretch out the time period assumed for the original threat projections used to justify the Safeguard. If the Soviets do not deploy the projected 420 SS–9s, then more than three warheads per missile would be needed for the equivalent threat to Minuteman to materialize. This would further alter the original timetable, since no tests of more than three warheads have been announced.

U.S. missiles—Each new generation of Minuteman missiles features improvements in range, payload, reliability, retargetability, penetration aids and other technical advances.

No estimates of the accuracy of the Minuteman are available to the public. Scientists on both sides of the Safeguard issue assumed accuracies for the Minuteman varying from 0.5 mile to 1.5 miles. One-quarter mile is the assumed accuracy required for a warhead the size of those on the current Minuteman to have the capability to knock out a hardened silo. The smaller warheads of the Minuteman III would have to have somewhat greater accuracy.

Administration officials from the President down are firm in stating that the United States does not have—and has no plans to seek—a hard-target capability.

No serious effort has been made at SALT to halt MIRV developments.

SALT POSITIONS

The Administration's formal proposal at SALT, put forward at the second round of the talks last summer, combined ceilings on offensive systems with a full or partial ban on ABMs.

The link between offensive and defensive limits has remained basic to the U.S. position. In his foreign policy message the President said, "To limit only one side of the offense-defense equation would rechannel the arms competition rather than effectively curtail it."

Elements: Within the broad U.S. position are a number of detailed provisions defining more fully what would be covered.

The substitution of one type of system for another within the over-all ceiling would be permitted, with the exception of increases in the numbers of large missiles, such as the Soviet SS–9.

Improvements, introduction of new systems, MIRV warheads and other qualitative changes would be allowed.

ABM systems would be eliminated or limited to an agreed number of launchers around each nation's national command center—Moscow and Washington.

According to press reports, the Soviets agreed generally at SALT to the limited Moscow and Washington ABM systems. There is continuing discussion of the specific details on numbers and types of radars to be allowed and of a U.S. proposal to substitute an ABM system protecting a Minuteman base instead of Washington.

Definitions: There has been basic disagreement throughout the talks over what constitutes a strategic weapon. The Soviets have insisted on including the U.S. "forward based systems" (carrier-based and land-based U.S. fighter-bombers in Europe), many of which are capable of reaching the Soviet Union.

Options deferred: In choosing to seek a ceiling on offensive systems rather than a freeze, whether permanent or with a time limit, the Administration has accepted the view, strongly held in the Pentagon, that verification of a freeze is not feasible. Officials also note that differences between U.S. and Soviet forces make even a short-term freeze difficult to negotiate.

The NSC on several occasions considered other options that would have relaxed the Administration's insistence on trying to get limits on both offensive and defensive systems in the initial agreement.

One approach suggested reaching a formal agreement on ABM limits, but making the agreement conditional on reaching a later agreement on offensive systems within an agreed time limit.

Another proposal suggested coupling an ABM agreement with a mutual freeze on new deployments of offensive weapons, both conditional on later formal agreement on offensive limits.

A particular variation of this approach was pushed by Arms Control and Disarmament Agency officials last June during Administration deliberations over its formal proposal.

The ACDA plan called for arranging simultaneous U.S. and Soviet announcements halting SS–9 and Safeguard deployments, pending progress in the talks.

Verification issues: The difficulty of verifying compliance with agreed limits and the dangers of clandestine cheating by the Soviets are the reasons offered by the Administration for not pursuing MIRV limits at SALT and for insisting on elaboration of the technical details of ABM limits.

These verification issues are at the core of disagreements within the Administration and of outside criticism of Administration proposals.

It was established early in the Verification Panel analysis that there is no feasible way to verify a ban on MIRV warheads once testing has been completed.

Satellites cannot photograph inside missile silos. On-site inspection could be circumvented by switching warheads—even if both sides departed from the past opposition to on-site inspection that has hampered every previous arms negotiation.

There has been, moreover, a continuing disagreement within the Administration over the technical feasibility of distinguishing MIRV tests from other kinds of ballistic missile tests.

The U.S. decision to insist on onsite inspection of any MIRV ban reflected the view that an agreement forbidding multiple warhead tests could not be adequately verified.

In the meantime, the United States completed testing on its MIRVs and began deployment as the second round of the talks were in progress.

John S. Foster Jr., director of defense research and engineering, argued during congressional hearings in 1969 that disagreement within the "intelligence community" over whether the Soviets were testing MIRVs or warheads that were not independently targetable was itself a demonstration that a MIRV test ban could not be verified with confidence.

Scientists working on U.S. multiple war-

heads claimed full confidence that they could design MIRV tests indistinguishable from single warhead tests, so it would have to be assumed that the Soviets could do it, too.

Soviet ABM: Soviet deployment of a line of defense missile and attendant radars—the so-called Tallinn line—in the late 1960s was first interpreted as the beginning of a nationwide area defense ABM system. After lengthy dispute, the intelligence community assessment, affirmed by Laird in his 1969 statement to Congress, is that the system is an advanced bomber defense.

However, Foster and other defense experts continue to advise that the Tallinn system—along with the extensive Soviet radar network, the ABM system around Moscow, continuing Soviet testing of ABM missiles and the large number of surface-to-air missiles deployed around the Soviet Union for bomber defenses—gives the Soviets the potential for secretly upgrading these elements into an ABM system.

The U.S. SALT proposal spells out clearly what changes in the Soviet systems, particularly radars, would be considered a violation of the ABM limits.

COMPARISON OF U.S. AND SOVIET STRATEGIC FORCES

Efforts by the United States and the Soviet Union to reach an arms control agreement at the SALT talks in Vienna are made more difficult by the differences in composition and numbers of the strategic forces of the two nations.

The differences have led to disagreement over whether the strategic balance is tipped in favor of the United States or the Soviet Union.

While there has been little dispute that the United States has been ahead in most respects, Administration leaders have been saying recently that the Soviets have narrowed the gap and even may have gained strategic superiority. On the other hand, some advocates of arms control say that the Administration is being excessively pessimistic to help justify heavier spending on U.S. weapons systems.

The table below compares the U.S. and Soviet strategic weapons being discussed at the SALT talks, based on what is known about the existing and planned weapons systems.

The United States has a substantial lead in the number of solid-fuel missiles and has begun a planned program to increase several-fold its number of nuclear warheads.

The Soviets continue to rely mostly on large liquid-fuel missiles and are slowly increasing their numbers of solid-fuel missiles.

Several elements of the arms race that have figured in the talks are not included in the table. One of the most important is the U.S. tactical aircraft force maintained in Europe and the Mediterranean. These aircraft, numbering about 500, could deliver nuclear weapons against the Soviet Union. Similarly, Soviet medium range ballistic missiles targeted on Europe have been excluded, as have the antiballistic missile (ABM) systems of both countries.

U.S. and Soviet negotiators have been unable to agree on whether the U.S. fighter-bombers in Europe and the Soviet missiles targeted on Europe should be classed as strategic weapons and thus placed on the bargaining table at Vienna.

Sources for the information in the table included the annual posture statements of the Secretary of Defense, testimony by defense officials before the Senate Armed Services Committee and other congressional panels and the annual publications of Jane's Yearbooks and the Institute for Strategic Studies.

Authorities frequently differ on the range and megatonnage of various missiles. Where sizeable divergences exist, the table presents a range of estimates.

UNITED STATES

Land-based ICBMs, solid-fueled

(Deployed)

Minuteman III (LGM–30G): The number of deployed Minuteman III ICBMs is slated to reach an objective of 550 by 1976. Deployment with MIRV (multiple independently targetable reentry vehicles) began in June 1970. Minuteman III has improved targeting, range, accuracy; its silos are being superhardened.

Number: 50, Range: 8,000+.

First operational: 1970, Warheads: three (MIRV); 200 KT.

Minuteman II (LGM–30F): The Minuteman II is the principal component of U.S. strategic forces. Fifty of them apparently will be replaced by Minuteman III. Range, accuracy, targeting are all improved over Minuteman I.

Number: 500, Range: 7,000+.

First operational: 1966, Warheads: one; about 2 MT.

Minuteman I (LGM–30B): All are being replaced by Minuteman III at rate of about 100 per year. An earlier version has been phased out.

Number: 450, Range 6,300.

First operational: 1962, Warhead: one; 1 to 2 MT.

(In research and development)

An advanced ICBM for launch from hardened silos deep underground is in early development. Annual funding is about $10 million, for preliminary studies only. The Air Force is continuing work on advanced reentry systems under the Advanced Ballistic Reentry Systems (ABRES) program, funded at $100 million in fiscal 1971. The Air Force requested $87 million for fiscal 1972. The program is directed toward increasing the survivability of warheads and ensuring their ability to penetrate enemy air defenses.

Land-based ICBMs, liquid-fueled

(Deployed)

Titan II (LGM-25C): Titan carries the largest payload of all U.S. missiles. Earlier versions have been phased out. Titan has been retained because of it long range, but is scheduled for phase-out beginning in 1973.

Number: 54, Range: 7,250 to 9,250.

First operational: 1962, Warheads: one; 5 to 10 MT.

(In research and development)

The United States does not plan to develop new liquid-fueled ICBMs.

Submarine-launched ballistic missiles

(Deployed)

Poseidon C–3 (ZUGM–73A): Initial deployment of Poseidon C–3, with MIRV, was announced April 1. Poseidon C–3 doubles Polaris' payload, with improved accuracy. A total of 496 missiles is planned for 1976. All 31 of the 616-class nuclear submarines will be converted to carry Poseidon, with 16 missiles on each submarine.

Number: 16, Range: 2,880.

First operational: 1971, Warheads: 10 (average); 50 KT.

Polaris A–3 (UGM–27C): The Poaris A–3 is the principal sea-based U.S. deterrent at present. It features an increased range over A–2, improved target coverage with three MRV (multiple reentry vehicle) warheads. The system will be retained on five 608-class and five 598-class submarines, for a total of 160 missiles.

Number: 560, Range: 2,880.

First operational: 1964, Warheads: 3 each (MRV); 200 KT.

Polaris A–2 (UGM–27B): This system represented improved propulsion and range when it replaced A–1. The 608-class submarines now carrying A–2 missiles will be converted to A–3s; the schedule is undisclosed.

Number: 80, Range: 1,750.

First operational: 1962, Warheads: 1 each; about 1 MT.

(In research and development)

ULMS (undersea long-range missile system): To counter Soviet antisubmarine warfare efforts, ULMS would replace Poseidon by the early 1980s. Each ship might carry 24 missiles.

Number: not determined, Range: Around 5,000.

Operational: About 1980, Warheads: (MIRV); size is unknown; likely to be comparable to Poseidon.

Strategic bombers

(Deployed)

B–52 G/H (Stratofortress): These are equipped with Hound Dog missiles (range up to 700 miles) and Quail decoy missiles. The bombers are undergoing modifications to carry 20 SRAM (short-range attack missiles), which are now in production (range up to 100 miles). The B–52 G/H could carry SCAD (subsonic cruise armed decoys), which is in an early development phase. The bomber's power plant consists of eight turbofans.

Number: 255, Payload: 4 to 6 H-bombs.

First operational: 1958–61, Range: 12,500 (maximum).

B–52 C through F: Some are deployed in Southeast Asia; others are in active storage. All are scheduled for replacement by the FB–111 and the B–1. The power plant is eight turbofans.

Number: 200 to 250, Payload: 4 to 6 H-bombs.

First operational: 1955, Range: 11,500 (maximum).

FB–111: These are planned as interim replacements for B–52 C–F bombers until the B–1 becomes operational. The originally planned force of 263 FB–111s has been cut back sharply. This aircraft can carry six SRAM missiles. The power plant is two turbofans.

Number 76, Payload: 2 to 4 H-bombs.

First operational: 1970, Range: 3,800 (maximum).

(In research and development)

B–1 (advanced manned strategic aircraft): This proposed bomber is under full-scale development to replace the B–52 G/H series. It would carry SRAM and SCAD missiles, and possibly other defensive missiles.

Number: 200 to 250.

Operational: Late 1970s.

SOVIET UNION

Land-based ICBMs, solid-fueled

(Deployed)

SS–13 (Savage): This is the newest Soviet missile, first displayed in 1965. The Defense Department confirms that fewer than 50 have been deployed in four years. Range estimates vary. The SS–13 is not rated accurate enough for use in counterforce strikes against U.S. missiles.

Number: Under 50, Range: 2,000 to 6,200.

First operational: 1968, Warheads: one; 1 MT (estimated).

(In research and development)

A variation of the SS–13, developed as an intermediate range missile (2,500 miles), was displayed in 1967. U.S. speculation about a new solid-fuel missile center on Soviet construction of large new silos; however, no U.S. observation of test flights has been announced to date.

Land-based ICBMs, liquid-fueled

(Deployed)

SS–11: The fuel of this ICBM is storable liquid. The United States does not rate the SS–11 as a counterforce threat. Some are believed targeted on Western Europe. The deployment rate is slowing, according to the Defense Department.

Number: More than 900, Range: 6,500.

First operational: 1966, Warheads: one; 1 to 2 MT.

SS–9 (Scarp): This missile is the basis of U.S. fears of Soviet first-strike capability. Authorities differ on whether its propellant is storable. U.S. officials have equated it with an improved U.S. Titan II. The SS–9 deployment rate decreased in 1970, as in 1968. When equipped with MIRV, this missile could carry three five-megaton warheads or up to eighteen smaller warheads.

Number 290 to 300, Range: 7,500 to 9,000.

First operational: 1965, Warheads: one; 12 to 25 MT.

SS–7 (Saddler), SS–8 (Sasin): This is the oldest group of Soviet ICBMs; their deployment remains essentially unchanged from 1965. Some are not deployed in underground silos.

Number: About 200, Range: 6,900.

First operational: 1961? (SS–7); 1962 (SS–8), Warhead: one; 5 MT.

(In research and development)

Multiple reentry vehicles have been tested on the SS–9 since August 1968; the Defense Department has not claimed thus far that Soviets have tested an actual MIRV. Soviets have tested since 1965 a depressed trajectory ICBM or a fractional orbital bombardment system (FOBS), either of which would complicate U.S. defenses; but neither would be effective in a first strike, according to defense officials.

Submarine-launched ballistic missiles

(Deployed)

SSN–6: These are deployed aboard seventeen Y-class nuclear submarines, each with 16 launching tubes. The Soviets are producing seven to eight submarines a year. The fuel of the SSN–6 is solid or storable liquid.

Number: 272, Range: 1,200 to 1,500.

First operational: 1968, Warheads: one each; 1 MT.

SSN–5 (Serb): This missile is deployed aboard 25 G-class diesel submarines and 10 H-class nuclear submarines, all having three launching tubes each. Some of these submarines, however, are believed to carry the SSN–4 Sark, which has a range of about 350 miles and requires surface launch. Authorities differ on the type of fuel used by the Serb.

Number: About 75, Range: 750.

First operational: 1964, Warheads: one each; 1 MT.

(In research and development)

The Defense Department believes that a new naval missile is under development. In making this statement previously, the department said the missile was "probably" the SSN-Sawfly. It now confirms that this is the same missile referred to last year, but will not confirm that it is the Sawfly. Defense officials have previously stated that the Sawfly, developed several years ago, will not fit into the Soviets' new Y-class submarines. No new submarine construction has been announced. The range of the Sawfly is estimated as 2,700 to 3,000 miles.

Strategic bombers

(Deployed)

TU–95 (Bear): Both Bear and Bison (below) are used for maritime reconnaissance, in addition to their roles as bombers. One version of Bear carries a single Kangaroo missile, with a range of about 250 miles. The power plant consists of four turboprops.

Number: About 100, Range: 5,200 to 7,800.

First operational: 1956, Payload; Less than the U.S. B–52.

Mya–4 (Bison): Fifty Bisons are configured as tankers. This aircraft has little or no missile capability. Numbers of both Bison and Bear are expected to continue to decline. The power plant is four turbojets.

Number: About 95, Range: 3,400 to 6,000.

First operational: 1956, Payload: Less than the U.S. B–52.

(In research and development)

The Defense Department says that the Soviets have produced a prototype of a new bomber, believed to be of medium range. No heavy bomber is being produced.

KT—kiloton (equivalent to 1,000 tons of TNT)

MT—megaton (equivalent to 1,000,000 tons of TNT)

Ranges are in statute miles. The distance between Moscow and the northern border of the continental United States is about 5,000 miles.

Numbers of missiles are as of the end of 1970, except in the case of the Poseidon, whose numbers are as of April 1.

CRITICS' VIEWS

Critics question the Administration approach to SALT across the board, from broad negotiating strategy to the basic technical assumptions on verification and the dangers of cheating. Herbert Scoville Jr., former ACDA science and technology director (1963–69), calls Administration strategic weapons policy the "worst-case analysis carried to the ultimate extreme."

Scoville and others say that any agreement that does not cover MIRV would be a license for a new generation of strategic weapons.

Strategy: Jeremy J. Stone, director of the Federation of American Scientists, argues that it would be much less ambiguous negotiating strategy for the United States to hold back on deployment of new strategic weapons.

Stone said in an interview that U.S. deployments are based on inflated estimates of Soviet capabilities and, if held in reserve, would be more likely to induce negotiations than to spur new Soviet weapons deployments.

The FAS, in a formal statement signed by Scoville and Herbert York, former director of defense research and engineering (1958–61), argued Nov. 2 that the U.S. proposal at SALT threatened to sacrifice an ABM agreement for a "sham" limitation on offensive weapons.

They argue that any agreement that does not cover MIRVs would preserve the U.S. land-based deterrent only for the time it takes the Soviets to perfect an SS–9 MIRV payload capable of carrying six, eight or more warheads.

They see the Soviet ABM as the only foreseeable threat to the effectiveness of the U.S. Polaris/Poseidon submarine-launched missiles, the heart of the U.S. deterrent. The chance to get an ABM agreement should not be endangered by rigid insistence on linking offensive and defensive weapons, they say.

FAS and a number of other arms control advocates have called for a change in SALT tactics. They have advocated signing an ABM agreement as part of a two-step process in which continuation of the ABM limits would be conditional on agreement to limit offensive systems within a given time.

ABM upgrading: The probability of clandestine upgrading of Soviet defensive systems to a point where they would be a forceful element in a Soviet first-strike plan is widely disputed.

One ACDA official noted that Soviet "henhouse" radars, which would be a key element in any expanded Soviet ABM system, are highly vulnerable and would have to be protected by missiles that would be seen by U.S. satellites.

Scoville says that the United States has been trying, in essence, to upgrade surface-to-air missile systems to a viable ABM for 15 years, with the Safeguard ABM as the result. Any similar Soviet effort, particularly one giving the high degree of confidence in its capability for destroying incoming warheads that a first strike would demand, would take many years to accomplish and could be detected in a number of ways, he says.

MIRV verification: According to a number of critics, the MIRV testing issue is an example of Administration failure to counterbalance adequately the technical possibility of cheating against a full assessment of the improbability of the cheating going undetected.

One former ACDA official told *National Journal:* "By now it's probably a moot point, but the question for a policymaker in the White House, as opposed to a Pentagon planner, ought to be whether, on the basis of a complete estimation of probability, it's worth taking the technically possible risk that they'll cheat in order to get the presumed benefits of a MIRV ban.

"It seems obvious to me that part of the reason a MIRV agreement was not seriously attempted while it was still feasible was the fascination with its potential usefulness in a more flexible strategy."

Scoville says that it is probably too late to get a MIRV agreement because of U.S. deployment. But, "it is extremely myopic from the standpoint of national security not to give it a try."

A former Pentagon analyst said: "Actually, the Air Force should be leading the opposition to MIRV, in its own interest. MIRVs are the biggest long-range threat to our land-based weapons."

The basic argument for the feasibility of a ban on MIRV testing has been that for the Soviet MIRV to constitute the first-strike threat claimed for it, Soviet leaders would have to have full confidence in its accuracy and reliability.

While it may be hard to detect MIRV system tests that are deliberately designed to disguise the system's capability, it is improbable that the extensive testing the Soviets would require to achieve a high-confidence MIRV capability could go on wholly undetected, arms control advocates argue.

Once a test ban is agreed to, it becomes a risky venture even to try cheating, given the onus of getting caught.

Military pressure: One former Pentagon analyst told *National Journal* that current Administration SALT policies reflect the difficulty of overcoming the inherent skepticism of the military toward arms control efforts.

He said that the "almost limitless" technical arguments against the viability of arms control agreements generally reflect "the extreme caution about Soviet intentions and capabilities inherent in the services' planning."

"You can argue that it's the job of the military to plan for the worst," he said, "but at some point it all has to be put into perspective."

He said that the strong and sophisticated analysis and debate on strategic weapons issues within the Pentagon under former Defense Secretary (1961–68) Robert S. McNamara still produced many more weapons than were needed at the time.

"I don't see any signs that the current system is succeeding any better," he said.

Scoville says that for arms control efforts to succeed in the face of internal pressures, "the President himself has to put his full and enthusiastic support behind the effort."

CONGRESS

The highly charged congressional debates on Vietnam, the ABM and the Pentagon budget the past two years have masked a general quiescence in Congress on SALT since the talks began.

This reflects a general feeling in Congress that it can have only a limited or indirect role in trying to influence negotiations with the Soviet Union.

While disagreeing with many aspects of the

President's foreign policy, Sen. J. W. Fulbright, D-Ark., has remained silent on SALT. The Foreign Relations Committee, which Fulbright heads, would have to pass on any treaty arising from the SALT talks.

Support: Leaders of the committees dealing with Pentagon programs support the policy of continuing U.S. weapons development while the talks are in progress, even though some question the approach.

Allen J. Ellender, D-La., chairman of the Senate Appropriations Committee and its Military Appropriations Subcommittee, said in an interview that the Administration policies are "the same old story."

"We talk peace and we prepare for war," he said. "You just can't get an arms agreement trying to negotiate from strength. The Russians aren't going to sign an agreement while they're weaker, and neither would we."

Yet Ellender feels that the President should be supported. "He's the commander-in-chief, and the people are more likely to follow him than Congress on national security questions," the Senator said.

Rep. F. Edward Hebert, D-La., chairman of the House Armed Services Committee, said in an interview that he would not approve of delaying U.S. weapons programs for SALT. "I don't get any great comfort out of conferences with the Russians," he said.

Proposals: A number of Democratic Senators have proposed ways to break the deadlock at the SALT talks.

The Democratic Policy Council proposed Feb. 26 that the United States accept an ABM agreement that is expressly conditioned on a freeze on offensive missiles, while the negotiations continue.

Variations of this plan have subsequently come from Democratic Sens. Edmund S. Muskie of Maine, new chairman of the Foreign Relations Subcommittee on Arms Control; Hubert H. Humphrey of Minnesota, and Stuart Symington of Missouri.

Jackson, chairman of the Senate Armed Services Subcommittee on SALT, has proposed a one-year freeze on new offensive missiles, including MIRV, while the talks continue.

STRATEGIC WEAPONS ISSUES

Laird has said that all U.S. weapons programs are designed to implement a policy of "realistic deterrence."

President Nixon said early in the Administration that the principle guiding strategic weapons decisions is "sufficiency."

However they are described, the Administration's strategic weapons policies call for increased funding for every major development program in strategic weapons and continued deployment of U.S. multiple-warhead missiles and the Safeguard ABM.

As explained in various Administration statements, this course puts pressure on the Soviets to negotiate seriously at SALT, keeps the President's options open pending the outcome of the talks, and provides an essential protective hedge against the projected threat if the talks fail completely.

The President emphasizes that a primary aim of U.S. strategic weapons programs is to convince the Soviets that the United States will not allow them to gain superiority in strategic weapons.

Policies are under review by the Administration aimed at giving the President alternatives in the use of nuclear weapons other than all-out attack. These policies have underlined the importance, in the view of Pentagon planners, of MIRV warheads for U.S. weapons.

The continued deployment of MIRV systems and the trend of long-range planning within the Administration has sparked criticism of current strategic weapons policies on a wide range of issues.

The greatest fear is that the SALT talks are being used to justify the continuation of weapons systems that may ultimately destroy current chances for meaningful arms control agreements.

U.S. weapons: The Pentagon's fiscal 1972 budget proposes increased spending for a long list of strategic weapons development programs.

Funds also are requested to continue deploying the Minuteman III MIRV missile and the Poseidon MIRV submarine-launched missile.

ABM—The Administration's request for funds to continue the Safeguard ABM program is geared to developments at the current talks.

The request is for $1.27 billion, but the decision on precisely how the money will be spent has been left open. The President wants authorization to spend the money either for initial procurement of components for a fourth ABM site in Wyoming or for initial work on a site near Washington, D.C.

The Army's development work on an advanced ABM concept, Hardsite, has been merged into the Safeguard program, and the funding has been increased. Hardsite envisions using large numbers of small, inexpensive radars and Sprint missiles to provide terminal defenses for the Minuteman silos.

Foster defends the concept as a long-range upgrading of Safeguard's silo defense capability "in case the potential Soviet threat materializes in the late 1970s." The Pentagon contends Safeguard is needed as a "platform" for later improvements like Hardsite.

Wolfgang K. H. Panofsky, director of the Stanford Linear Accelerator and a leading opponent of Safeguard, argued in congressional hearings in 1969 and 1970 on the ABM that the Administration should skip Safeguard and use the money to perfect the Hardsite concept.

He argued forcefully that Safeguard would be ineffective at its primary mission—silo defense—if the Pentagon is correct in its projection of the Soviet threat. A more realistic assessment of how soon the Soviets could achieve the projected threat, he said, would allow time to develop and deploy the more effective Hardsite concept.

The Senate votes in 1970 on Safeguard were aimed at forcing the Administration to defer ABM deployment and conduct further research on the concept. (*For background on the controversy, see Vol. 2, No. 23, p. 1177; for votes, see Vol. 2, No. 33, p. 1791, and Vol. 2 No. 34, p. 1851.*)

Other programs—Other major development programs would receive substantial funding increases in the proposed fiscal 1972 Pentagon budget. The programs, all in the research-and-development stage, include the new B–1 bomber, the Airborne Warning and Control System (AWACS), new missiles (SRAM and SCAD) for B–52 and FB–111 bombers, satellite reconnaissance systems and over-the-horizon radar for early warning of attack, all for the Air Force; the successor to Polaris/Poseidon, ULMS (undersea long-range missile system), for the Navy; and a new surface-to-air missile, SAM–D, for the Army. (*For a report on the programs in the budget, see No. 4, p. 166; for a summary of the Pentagon budget, see No. 6, p. 290.*)

Threat: These U.S. weapons programs are nominally a response to estimates of Soviet capabilities in strategic weapons in the foreseeable future.

SS–9—The chief worry is the Soviet SS–9 missile. Every increment in its gradual deployment has been well publicized. The Pentagon has estimated that the missile's power, sufficient to boost a 13,500-pound payload into intercontinental trajectory, gives the missile the capability to fire warheads up to 25 megatons at the United States. By comparison, the U.S. Minuteman, according to most estimates, carries a warhead of about one megaton.

Current estimates put the number of operational SS–9 missiles at about 280.

The United States has no military missile so powerful. The U.S. Titan II, deployed in limited numbers in the early 1960s—there are currently 54 Titans in silos—has a 5- to 10-megaton warhead. Former Defense Secretary McNamara chose to deploy large numbers of solid-fueled Minuteman missiles, rather than larger liquid-fueled missiles such as the Titan (and the Soviet SS–9), because the solid-fueled missiles are much less expensive to maintain and more efficient to operate. Also, McNamara's deterrence strategies called for large numbers of small warhead missiles rather than a few missiles with high-megaton warheads.

Defense officials repeatedly stressed during the first two years of the Nixon Administration that the rate of deployment of Soviet strategic weapons would threaten the U.S. deterrent if continued during the next four or five years.

The power of the Soviet SS–9 missile affords the Soviets wide flexibility in mixing the numbers and explosive yield of warheads on each missile. Tests have been conducted since late 1968 of a payload containing three warheads of an estimated five megatons each.

Other Soviet systems—The Soviets, according to Laird, have deployed "over 900" SS–11 missiles, which can carry warheads about the size of the Minuteman, and about 45 SS–13 solid-fueled missiles. About 200 older ICBM's have been retained by the Soviets, but are not in hardened silos.

The Soviets are building a new class of ballistic missile submarines—called the "Yankee" class by the Pentagon—comparable in capability to early versions of the U.S. Polaris. Each submarine carries 16 ballistic missiles with a range estimated at about 1,200 miles. About 17 are said to be operational.

The ABM complex around Moscow, begun in 1964 and completed last year, employs 64 Galosh ABM missiles. In addition, the Soviets have deployed large numbers—estimates run to as many as 10,000—of SAM missiles as a defense against U.S. bombers. The system includes the Tallinn line of high-performance missiles northwest of Moscow.

The Soviets are estimated to have about 145 intercontinental bombers, with another 50 of these planes outfitted as tankers.

Testing—Beyond the simple growth in the numbers of Soviet missiles, which had been increasing at varying rates since 1964, a number of Soviet development and testing programs have figured prominently in U.S. estimates of the potential Soviet threat.

These include testing of improved ABM missiles—said to have the capability of "loitering" in the atmosphere before picking a warhead to destroy—improvements in defensive radars, development of a new bomber, testing of orbiting attack vehicles to destroy U.S. surveillance satellites and a variety of testing programs aimed at improved capabilities for their missiles.

Future threat—These assessments of Soviet capabilities have been projected, with numerous variations in timing and alternative estimates of probability, to produce a long-range picture of Soviet advantage in the strategic balance.

Pentagon and NSC officials questioned by *National Journal* said that, without U.S. countermeasures or a SALT agreement, current Soviet programs could produce a situation, in the long run, in which U.S. Minuteman missiles are vulnerable to accurate MIRV warheads on the SS–9, U.S. bombers are vulnerable to Soviet ballistic submarine attack, and the effectiveness of the surviving Minuteman missiles and bombers is lessened by Soviet ABM and surface-to-air missile defense.

The Pentagon's Foster also says that the Soviet SAM missile defense system and accompanying radars could be upgraded to serve as ABMs, further lessening the effectiveness of U.S. offensive missiles, and that

this potential must be taken into consideration in U.S. planning.

These developments would, in this analysis, leave U.S. Polaris/Poseidon submarine missiles targeted on Soviet cities but with their use deterred by the remaining Soviet SS–11 and SS–13 missiles. In a nuclear confrontation, the President would be faced with what he calls in this year's foreign policy message the "agonizing choice between paralysis and holocaust."

Doctrine: The U.S. strategic forces intended to meet this perceived threat are supposed to be guided by what the Administration calls the doctrine of "sufficiency." A general review of U.S. strategic forces policy in 1969 by the NSC produced *four basic criteria* for judging sufficiency, which were set out in a National Security Decision Memorandum at the end of that year.

Assured destruction—The criterion of assured destruction, which was the basis of the McNamara approach to deterrence, has been adopted by the Nixon Administration.

McNamara developed a rough measure for judging how many U.S. weapons were required to assure a level of destruction on the Soviet Union that would deter a Soviet attack.

In the McNamara calculation, used principally to counter arguments from the services for larger numbers of weapons than he thought necessary, about 400 surviving U.S. warheads, delivered on the Soviet Union after an attack, would kill 30 per cent of the population and destroy 76 per cent of Soviet industry. Increasing the number of warheads to 800 would increase the number of people killed to 39 per cent and the amount of industry destroyed to 77 per cent—not enough of an increase to justify the added cost.

Hostage equality—The criterion of hostage equality means, in the Administration view, that neither side should be allowed to achieve an overwhelming superiority in nuclear weapons, even if that superiority would have only marginal effects in the total disaster of an all-out nuclear war.

Crisis stability—This criterion emphasizes the survivability of U.S. weapons, based on the judgment that vulnerable weapons increase the temptation for the other side to strike first with nuclear weapons in a time of crisis or conventional war. The adoption of "launch-on-warning" strategies as a means of overcoming the vulnerability of missiles is rejected on the grounds that such strategies increase the danger of miscalculation in a crisis.

Stability also requires, in the President's view, U.S. strategic forces and policies flexible enough to respond to a Soviet attack at the same level—to avoid the situation in which "the indiscriminate mass destruction of civilians is the sole possible response to challenge."

Umbrella—The fourth measure of sufficiency, as set forth by the NSC, is the continued ability to protect other nations with the U.S. nuclear umbrella.

Japan, India and a number of other countries signed the nuclear nonproliferation treaty with the understanding that the United States would provide the protection of its nuclear weapons as a substitute for each country developing its own weapons.

This U.S. pledge will depend for its credibility, in the Administration view, on the "thin" population defense capability of the Safeguard ABM, as China develops its ICBM force.

A "thin" ABM would make credible a U.S. threat of nuclear attack against China, in the event that China were threatening another nation. (*For a discussion of "sufficiency," see Vol. 2, No. 16, p. 810*)

Weapons decisions: These criteria are expressed in three basic guides for the design of U.S. forces: survivability, flexibility and mix.

To increase the survivability of U.S. strategic weapons, programs for hardening missile silos have been approved. Improvements in U.S. air defenses, the ABM and MIRV programs are all justified as improving survivability.

MIRV warheads, more accurate missiles, and improvements in command and control are all seen as contributing to the flexibility of U.S. forces.

Survivability and flexibility both require, in the Administration analysis, a full mix of bombers, submarine-based missiles and land-based missiles, to prevent the Soviets from concentrating research and development on defeating any one element. The mix also complicates the Soviet's problems in targeting and coordinating a first strike.

Each of these arguments supports the view that the security of the nation requires the full array of U.S. strategic forces.

McNamara coupled his basic concern with maintaining an assured destruction capability with a secondary aim of developing forces to limit the damage to the United States that might result from a nuclear exchange. One approach to limiting damage is constructing ABM defenses. Another is developing offensive missiles capable of destroying Soviet forces before they attack.

Counterforce strategies: The latter approach is called a "counterforce strategy"—meaning that offensive weapons are targeted on the enemy's offensive weapons, rather than his population centers.

The Administration is considering such a strategy, and it is for this reason, among others, that it has been reluctant to put MIRV on the bargaining table at SALT. MIRV would be needed if the United States were to develop a capability to knock out Soviet missiles in silos—in a retaliatory second strike, or, conceivably, in a first strike.

NSC officials questioned by National Journal say that Administration concern about crisis stability and the credibility of the U.S. deterrent, particularly in Europe, has stimulated consideration of weapons and strategies suitable for a counterforce approach to deterrence sometime in the future.

The Air Force chief of staff, Gen. John D. Ryan gave his interpretation of the outlook in a speech Sept. 22, 1970, in which he said that the Minuteman III missile with its MIRV "will be our best means of destroying time-urgent targets like the long-range weapons of the enemy."

Elsewhere in the speech Ryan made clear that he was talking about a second-strike counterforce strategy aimed at ". . . the remaining strategic weapons which the enemy would no doubt hold in reserve."

A counterforce capability is being reviewed, as an alternative to immediate recourse to general nuclear war in a crisis situation.

Options.—Officials emphasize that counterforce strategies have been considered thoroughly in the past and that current efforts are intended only to preserve these strategies as options for force planning and weapons development. Future development of the necessary forces to carry out these strategies depends, according to Pentagon officials, on the terms of the final SALT agreement.

Programs.—The services have paper studies under way on exactly what weaponry, force levels and crisis management techniques will be required for a counterforce strategy.

According to Pentagon officials, current U.S. MIRV systems were designed for destroying cities and would have to be more accurate than they now are if they were to be used to destroy military targets.

The Army's Hardsite ABM program is being pushed as a means of enhancing the capability of defending Minuteman silos.

According to testimony by Foster before the Senate Foreign Relations Committee in 1969, the United States developed, but did not deploy, a method by which U.S. missiles could signal back whether the warheads had been sent off on the right trajectory.

Development programs are under way for satellites capable of sensing Soviet silos from which the missiles had already been fired.

Special emphasis is being given in NATO planning to the problems of command and control communications.

Strategy questioned—The Administration interest in alternatives to assured destruction has revived long-standing opposition to the damage-limiting and limited nuclear war strategies being contemplated.

One former Pentagon analyst under McNamara told *National Journal*, "In theory, it's nice to have options, and the President always asks for them. Kennedy did, Johnson did. McNamara said, 'You can't have a credible deterrent based on an incredible action—that is, saying you'll blow them up and accept getting blown up yourself if they more troops against NATO.'

"But, nobody has ever been able to think up a scenario for a controlled exchange that makes any sense. The idea of being able to control responses in a crisis situation is not credible."

The reluctance of the NATO allies to contemplate strategies that might result in the devastation of Europe in a limited nuclear war complicated flexible response planning throughout the 1960s.

The President's foreign policy report indicates that this is still an unresolved issue within NATO.

Ambiguity—Panofsky notes that the technology required for a counterforce strategy—principally, accurate MIRV missiles—is the same as that required for a first strike. This ambiguity, in his view, is potentially destabilizing for the nuclear balance.

"Survival demands that we must give absolute priority to avoidance of nuclear war over the ability to fight one," he said.

Scoville and Panofsky both argue that the "key myopia," in Scoville's words, is the tendency to regard counterforce exchanges as a "pure" contest in which weapons are destroyed but no one gets hurt. They say that calculations of the number of people killed from secondary effects of even a limited counterforce exchange would make these strategies seem less attractive.

The chief worry is that the inherent ambiguity about the intentions of a country with a counterforce capability makes a meaningful SALT agreement nearly impossible and might stimulate the Soviets to consider a "launch-on-warning" or even a first-strike policy.

Policies questioned: The Administration's policy of arming while the talks continue is faulted by a number of observers.

A former ACDA official told *National Journal*, "Here we are putting MIRV warheads on our missiles and leading the Soviet Union by a wide margin in every relevant category of military hardware—why (Deputy Defense Secretary David) Packard said that himself—with troops all over the world, a sound, well-focused research-and-development program and a virtually endless shopping list of new weapons, and what's the thrust of the Administration's foreign policy? What's the principal inhibiting factor in our SALT policy? The fear that a Soviet planner might get the idea that we're weakening, getting soft."

Domestic risk—A congressional staff member close to arms control issues, who declined to be identified, told *National Journal*, "In the long run it is probably riskier to let some of these weapons programs get a good start than to hold up on them.

"It's bad bargaining strategy with the Pentagon, in any case. It takes a tremendous investment in time and energy and arm twisting or compromising to stop a major

weapons systems that one of the services is deeply committed to. One man's bargaining chip is another man's opening wedge."

No hard choices—One former NSC staff member under both President Johnson and President Nixon told *National Journal*, "You don't hear criticism of Kissinger being 'Secretary of Defense in everything but name' or complaints from the House Armed Services Committee about Kissinger and his whiz kids undercutting the judgment of the professional military.

"Everyone is more sophisticated about nuclear weapons policy now, including the Pentagon, and the budgetary constraints have forced the services to make fairly reasonable requests. But if the White House were doing anything that really threatened any vested interests, it wouldn't be all sweetness and light as it is now."

Scoville sees the Administration's SALT policies and the kind of agreements being talked about as having the potential for legitimizing, in the name of arms control, a new round of increased spending on strategic weapons.

One impetus behind this possibility, Panofsky said, is that "nuclear weapons are by far the cheapest way to kill."

SUMMARY OF SALT NEGOTIATIONS

Limited progress has been made at the Strategic Arms Limitation Talks, now in their fourth round. Following is a summary of the negotiations at each session:

First round: The first session, held in Helsinki Nov. 17–Dec. 22, 1969, was devoted to general discussions of strategic weapons and the problems of verifying compliance with any arms control agreement.

A basic disagreement over whether U.S. fighter-bombers based in Europe should be considered strategic weapons was first raised at this session. It has remained an issue.

Second round: The U.S. delegation offered for discussion two alternative approaches to limits on offensive and defensive weapons early in the second round of the talks, held in Vienna April 16–Aug. 14, 1970.

One approach suggested a ceiling on the total number of offensive delivery vehicles—missiles and bombers—for each side and a ban on qualitative improvements, particularly MIRV, to be verified by on-site inspection.

The second approach suggested a substantial reduction in large missiles, especially the Soviet SS–9, as a substitute for a MIRV ban. Both approaches coupled offensive limits with a total or partial ban on ABMs.

After Gerard C. Smith, chief U.S. negotiator at SALT, returned to the United States for consultations in June, the United States presented a formal proposal as a basis for negotiations. The proposal, based on the expected negative Soviet response to earlier suggestions, was a package linking a ceiling on offensive weapons to a full or partial ban on ABMs.

The proposal suggested that substitution of missiles for bombers or other changes in the mix of weapons within the ceiling could be allowed, except that a fixed limit would be negotiated for large missiles such as the SS–9.

Third round: The remainder of the second session and much of the third session, held in Helsinki Nov. 2–Dec. 18, 1970, were devoted to expanding on details of the U.S. proposals.

The Soviets suggested that continued disagreement over U.S. fighter-bombers in Europe might be bypassed for an agreement coupling ABM limits with a commitment to subsequent negotiations on offensive weapons.

The President has decided to continue pressing for a combined limit on offensive and defensive weapons. He said in his Feb. 25 foreign policy message that an agreement covering only one side of the offense-defense equation would be dangerous and might remove the incentive to negotiate a more comprehensive agreement.

Fourth round: The current round of the SALT talks began March 15 at Vienna. *The New York Times* reported April 29 that the Soviets have proposed a five-year treaty limiting ABMs to 100 missiles protecting each nation's capital. "Administration officials" were given as the source.

NUCLEAR WARHEAD TEST BAN

Arms control deliberations are continuing at the permanent Eighteen Nation Disarmament Conference in Geneva, while the United States and the Soviets negotiate at SALT.

The Geneva talks produced an agreement last year, signed by 62 nations after two years of bargaining, which bans all weapons of mass destruction from emplacements on the ocean floor.

Currently, two other areas of weapons control are under consideration: a ban on chemical and biological weapons and a ban on all testing of nuclear warheads.

Test ban issue: Nuclear testing has been conducted underground since the 1963 agreement outlawing tests in the atmosphere. Efforts to ban all testing foundered at the time on the issue of on-site inspection.

Feasibility—Since the 1963 agreement, research has largely solved the problem of monitoring tests without on-site inspection. Technology has reached the state where seismologists are confident they can distinguish between an earthquake and even a small nuclear test explosion anywhere in the world.

A number of scientists, including some working for the Pentagon's Advanced Research Projects Agency, have conducted a long campaign to remove any doubts about the technical feasibility of monitoring tests seimologically. As a result, scientific arguments are no longer seriously advanced as a block to a test ban.

Advocacy—A number of arms control advocates, including William C. Foster, head of the General Advisory Committee for the Arms Control and Disarmament Agency, argue that a treaty banning nuclear testing should be sought regardless of progress at SALT. In this view, a halt to testing would effectively limit qualitative improvements in strategic weapons, such as MIRV (multiple independently targetable reentry vehicles), which are not covered by current proposals at SALT.

Administration reluctance: The Administration has decided to delay negotiations on a test ban until it is clear what kind of controls on strategic weapons will emerge from SALT.

Gerard C. Smith, ACDA director, told newsmen at the opening of the current round of SALT in Vienna, March 15, that there was no scientific reason for not seeking a test ban treaty, but that negotiations would most likely be delayed until after the SALT talks.

The Administration's decision to give top priority at SALT to controls on deployment of weapons systems, rather than their qualitative improvement, is based in part on the view that warhead testing has gone far enough on each side for the United States and the Soviet Union to make qualitative improvements in weapons without further warhead testing.

Another factor is the general reluctance of both Atomic Energy Commission and military leaders to sign away the option of continued testing in the absence of firm weapons agreements.

FOSTER: NUCLEAR WEAPONS EXPERT

John S. Foster Jr., 48, the Pentagon's research and engineering director, has spent his professional career studying components of the arms race.

"Radar, warheads and missiles," he once responded to a House committee member who inquired about his professional interests.

On assuming his post in October 1965, Foster became the third (after Herbert York and Harold Brown) director of the Lawrence Radiation Laboratory in Livermore, Calif., to move straight to the Pentagon's top research job. He was retained in the job by Defense Secretary Melvin R. Laird after the Nixon Administration took office.

Warnings: Within the past year Foster has spoken frequently on the dangers of "the growing Soviet strategic threat." In April 1970 he warned members of the American Newspaper Publishers Association that "the Soviet Union is now about to seize technological leadership from the United States." In a *U.S. News & World Report* interview Nov. 30, Foster said the United States still has a two- to three-year lead over the Soviets. But he said that without increased defense research efforts "we would be number two technologically in some areas" by 1974 or 1975.

Spokesman: Widely regarded as a highly competent defender of such controversial programs as the ABM, Foster has testified before Congress on subjects other than the research budget. In 1963 he opposed ratification of the Nuclear Test-Ban Treaty, saying that the United States should test certain nuclear devices above ground.

In 1969 he appeared before a House Foreign Affairs Subcommittee to explain why the Pentagon believed testing of multiple independently targetable reentry vehicles should be continued. Foster had announced the MIRV testing program six weeks earlier. Under questioning, Foster said MIRV was necessary to counter Soviet ABM work. He said he believed that an agreement at the Strategic Arms Limitations Talks was more likely if MIRV were developed than if all testing were halted.

Background: Foster began defense work during World War II when he left McGill University in Montreal to work on radar countermeasures at the Harvard Radio Research Laboratory. He was graduated from McGill in 1948 and received a doctorate in physics from the University of California at Berkeley in 1952. He then went to work at the nearby, newly formed Lawrence Radiation Laboratory, where he participated in major advances in the design of nuclear weapons. He became director of the laboratory in 1961.

CLIPPARD INSTRUMENT LAB, INC., AWARDED THE RCA CONSUMER ELECTRONICS VENDOR AWARD

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. JONES of Tennessee. Mr. Speaker, the Clippard Instrument Lab, Inc., was recently awarded the RCA Consumer Electronics Vendor Award for the fourth quarter of 1970. This award was made in recognition of the company's record of outstanding quality, service, and price.

The Paris, Tenn., plant of the Clippard Instrument Lab is one of the outstanding industries of the Eighth Congressional District, which I am proud to represent in this body. This plant provides employment for many residents of the Henry County area, and I, for one, am especially proud of the company's record. Mr. Bill Calwell and the personnel of the Paris plant are to be commended for their achievement as recognized by this coveted award.

POSSIBLE RISE IN HEATING FUEL OIL PRICES

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. CONTE. Mr. Speaker, on May 11, 1971, it was my pleasure to host a luncheon for the New England House delegation and some 100 representatives of the New England Fuel Institute. The institute is an association covering a six State area, with a membership of 1,100 independent retail home heating oil dealer-distributors. Its members sell nearly 80 percent of the No. 2 home heating oil in New England and are retailers of substantial quantities of No. 6 residual fuel oil.

Under the leadership of its immediate past president, Robert DeBlois of Rhode Island, and its newly elected President, Donald Craft of Connecticut, the Institute has been one of the leaders in the effort to assure adequate supplies of heating oil at reasonable prices. The purpose of the meeting was to brief our House delegation on the price and supply situation as it bears on New England's needs for the coming winter. While it may seem that the coming winter is far off, unless we act now to plan and organize, we will not be able to effect the kinds of changes needed in the present program to achieve our goal.

Mr. Speaker, for the information of my colleagues, I include at the close of these remarks: a copy of my remarks at the luncheon, a copy of a letter which I authored and which was cosigned by the entire New England House delegation. A statement of position by the institute together with some articles from the trade press on the present situation, and finally, two submissions to the Oil Policy Committee by the Independent Fuel Terminal Operators Association. The members of the Terminal Operators Association are participants in the new No. 2 oil import program for District I and, like the New England Fuel Institute, have consistently advocated increased imports in order to reduce consumer prices. I urge my colleagues to examine all of this information carefully.

The material referred to follows:

REMARKS BY U.S. REP. SILVIO O. CONTE, R–MASS., AT THE NEW ENGLAND FUEL INSTITUTE LUNCHEON FOR NEW ENGLAND HOUSE MEMBERS MAY 11, 1971

On behalf of all my colleagues, I am pleased to welcome this delegation of members of the New England Fuel Institute. It's good to see so many old friends from all 6 states. I am glad to greet your past President, Bob DeBlois of Rhode Island, who did such a fine job during his tenure, and I'm happy to meet your newly-elected President, Donald Craft of Connecticut.

The continuing efforts of the Institute, both locally and here in Washington, have played an essential role over the past 5 years or more in highlighting the fuel oil problems in New England. You have been a great help to us in Congress in our efforts to find a solution.

All of us have been particularly impressed by the understanding of your group for the need for persistent, factual presentation and hard work to achieve your goals. You've understood what it means to fight the world's most powerful lobby, and I congratulate you and thank your for your continuing efforts.

These semi-annual trips that you make to Washington have made the difference. I am sure of that. Keep up the fight and the good work.

Despite the many frustrations, we *have* made some progress. I remember the first trip that many of you made here to Washington in 1967. We've come a long way since then. There is now official recognition at the White House level of the heating oil issue, as shown by last year's creation of the No. 2 oil import program for the east coast. That program is a good start, but clearly is not enough.

Before you hear from our main speaker, I want to take a moment to review where we are today. As you know, the No. 2 fuel oil program, providing 40,000 barrels per day into District I, has been extended through 1971. Unfortunately, that program is now under fire. An attempt is being made by some of the oil industry's good friends in government to eliminate it at the end of this year. They're even trying to put No. 6 residual fuel oil back under control, which all of you recognize is clear nonsense. I know I speak for the entire delegation in pledging to you that we will do everything in our power to assure that the No. 2 fuel oil program is continued next year, is made permanent and is expanded. And we will fight any attempt to restore import controls on No. 6 oil. The price of that product is high enough now as it is.

When the President announced the No. 2 fuel oil program last June, he stated that it was designed to alleviate price, supply and competitive problems in the fuel oil markets in New England and elsewhere along the east coast. As I see it, only one of those goals has been reached—the new program *did* provide more supplies of No. 2 fuel oil and helped us to avoid a shortage last winter for the first time since the winter of 1966–67. But the oil available from the Caribbean was not priced low enough to bring any price relief to our area, and certainly neither price nor supply were sufficient to strengthen the independent dealers or to promote real competition with the majors.

For the immediate future, as I see it, our goal must be more No. 2 fuel oil imports at more reasonable prices. And we welcome your suggestions as how to best achieve this immediate, short-range goal.

I want to take a moment to tell you what I see is our long-range goal as New Englanders and as consumers. The primary goal is one for which the New England Fuel Institute has been fighting for many, many years—complete decontrol of No. 2 fuel oil imports. Obviously, we'll have to go about this step by step, but that's what we're aiming at. Only yesterday we sent to the President a letter signed by the New England House delegation, following up on some of the concerns which are being expressed to us today. The purpose of this letter is really four-fold. *First,* to nail down once and for all whether we're going to have a No. 2 fuel oil program next year, for we recognize that, as marketers of No. 2, you must know this so you can plan for the future. *Second,* we are also asking for an increase in the import quota to 100,000 barrels per day. *Third,* we're asking for removal of the Western Hemisphere purchase limitation in the current import program so that we can get better priced products. *Fourth,* we want an immediate investigation of Humble Oil's recent wholesale price increase of more than 10 percent, which is going to cost New England consumers about $60 million next winter.

We as a delegation have also been exploring other steps for bringing relief to our area. I have again introduced a bill, which now has 90 co-sponsors, to abolish the oil import quota program. The same congressmen have also cosponsored my bill to repeal the Connally Hot Oil Act, which, as you know, allows Texas and Louisiana to keep oil production down and prices high.

Within the next few weeks, my colleague, Michael Harrington, and I, along with Senator McIntyre and others, plan to introduce a bill to establish a federal system for storage and maintenance of an emergency oil reserve in this country. The bill is based on a proposal by two outstanding petroleum economists, Dr. Walter J. Mead and Dr. Philip E. Sorenson. Everyone now recognized that we must import more oil. This proposed standby system would do a much better job of protecting our security than the present quota system. If we need reserves for a time of emergency, I think we ought to have them guaranteed, and I think the federal government should pay for it—not just the consumers of New England.

In a few days, Congressman Harrington and I will be soliciting support for this bill. I hope all in New England will join us, along with many others from across the nation.

In conclusion, let me pledge that we are going to keep at this fight, we are going to keep the public pressure on, but we need your help and continuing support and interest. Together I am sure that we can do the job.

LETTER TO THE PRESIDENT FROM ALL NEW ENGLAND HOUSE MEMBERS—MAY 10, 1971

DEAR MR. PRESIDENT: We, the members of Congress from New England, are writing to express our deep concern about the current policies of the federal government relating to No. 2 (home heating) oil. Those policies will, unless altered, lead to higher prices and a possible shortage of the product in the winter of 1971–72. We bring these matters to your attention now, because changes must be made soon to facilitate planning before the onset of cold weather.

The situation facing our six-state area, and in fact all of the Northeastern states, next winter may be briefly summarized as follows:

Prices are continuing to escalate. Humble Oil Company, which dominates the east coast heating oil market, has just announced that it will raise the wholesale price of No. 2 oil by 1.3 cents per gallon by the end of 1971. This increase of more than 10 percent will mean added annual costs to consumers in New England alone of $60 million; added costs in New York State will also be $60 million per year, and in New Jersey and Pennsylvania, nearly $70 million.[1]

In 1970 Humble raised the price of No. 2 fuel oil by .9 cents per gallon, so the total increase in the price of this vital product over the 1970–71 period will amount to more than 20 percent.[2]

The supply picture is uncertain. Recent reports that the Office of Emergency Preparedness and the Department of the Interior are seriously considering the elimination of the No. 2 fuel oil import program have had a most unsettling effect. Needless to say, uncertainty about federal import policies makes planning for next winter more difficult.

Demand for No. 2 fuel oil will be much higher in the winter of 1971–72; the authoritative Oil and Gas Journal projects a 10–15 percent increase over 1970–71 levels. Utilities are burning increasing quantities of the

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[1] It should be noted that homeowners in Eastern Canada—just north of New England—pay at least two cents per gallon less for home heating oil than do the citizens of the Northeast.

[2] Humble's price moves, coming at a time when demand for home heating oil is low and stocks high, demonstrate once again the uncompetitive nature of the East Coast fuel markets and the need to alter U.S. import policies to stimulate competition.

product, and substantial quantities of No. 2 fuel are being diverted from the home heating market to the industrial market for use in blending with higher sulfur residual fuel oil.

These factors give cause for serious concern about the supplies of No. 2 fuel oil, and underscore the need for action now to assure a high level of imports into the East Coast in 1971 and 1972.

In order to arrest the price escalation and to assure adequate supplies, we strongly recommend that you take the following steps:

1. Announce, on or before July 1, 1971, that the No. 2 fuel oil program for District I (the East Coast) will be extended and expanded to a level of at least 100,000 barrels per day in 1972. Such action would remove the current uncertainty in Northeastern fuel markets and facilitate efficient planning for next winter.

2. Amend the Oil Import Proclamation to remove the current requirement that No. 2 fuel oil imported into the Northeastern states must be purchased from Western Hemisphere refineries. This restriction has made it impossible for the new No. 2 fuel oil import program to provide consumer relief to New England, for the two major oil companies who dominate the Caribbean arbitrarily raised the price of No. 2 fuel oil by 50% last year; further these companies have told New England suppliers that there will be no No. 2 fuel oil available in the Caribbean next winter.

Removal of the Western Hemisphere restriction should be effective before the end of May, so that independent deepwater terminal operators may purchase oil at lower summer prices in European refineries. Removal of the Restriction would help to assure that the fuel oil import program you established last year under Proclamation 3990 achieves its stated goals:

"To alleviate . . . the price, the supply and the competitive situation in connection with No. 2 fuel oil . . . on the East Coast, particularly New England and the Middle Atlantic states."

3. Order the Office of Emergency Preparedness to make an investigation of the Humble price increase, as required by Section 6(a) of Presidential Proclamation 3279. Such an investigation should be made expeditiously, and should include specific recommendations on changes in U.S. import policies necessary to roll back the recent increase in No. 2 fuel oil prices and prevent any further escalation.

Mr. President, a year ago you recognized the need to act promptly to avoid a crisis in home heating markets. We call upon you to exercise similar foresight now and to take the three steps outlined above so that an ample supply of No. 2 fuel oil, at reasonable prices, will be assured for the homeowners of the northeastern states in the winter of 1971–72.

Thank you for your consideration.

NEW ENGLAND FUEL INSTITUTE,

Boston, Mass., May 10, 1971.

STATEMENT OF POSITION

The New England Fuel Institute is an association covering the six state area, with a membership of 1,100 independent retail home heating oil dealer-distributors. Its members sell nearly 80% of the No. 2 (home heating) fuel oil in New England and are retailers of substantial quantities of No. 6 (residual) fuel oil.

The Institute commends the members of the Senate and House from New England for their untiring and effective fight to assure adequate supplies of fuel oil, at reasonable prices, for the consumers of our area.

The Institute is grateful for the efforts which culminated in establishment of the special program allowing for importation of 40,000 barrels per day of No. 2 fuel into the Northeastern states; this program assured adequate supplies for New England in the Winter of 1970–71.

Viewing the future, the New England Fuel Institute is deeply concerned about three aspects relating to No. 2 fuel oil:

1. *Demand.* The Oil and Gas Journal projects a 10-15% increase in demand during the latter half of 1971. NEFI agrees with this projection, but warns that it could prove low for the New England area due to the following factors: record demand for No. 2 fuel by utilities; increased consumption by small apartment and factory buildings, converting from No. 6 burners to meet anti-pollution standards; increased use of No. 2 fuel in blending with high sulfur No. 6 oil, to meet more stringent anti-pollution rules going into effect during 1971–72.

2. *Supply.* Because of high nationwide demand for distillate fuels, domestic refineries may not produce adequate amounts for the coming Winter. The supply picture in the Caribbean is bleak; major refiners in the area will have little product available for importation into New England and only at very high prices.

Substantial supplies of No. 2 fuel oil are, however, available at European refineries.

3. *Price.* Prospects for the Winter of 1971–72 are not good. The wholesale (cargo) price of No. 2 fuel oil will be increased along the East Coast by 1.3 cents per gallon by the end of 1971. These price moves will mean added costs to consumers of New England of $60 million per year.

RECOMMENDATIONS

The New England Fuel Institute urges that Federal oil import policies be changed to meet the problems outlined above. Specifically we recommend:

1. Suspension *on or before June 1,* of the Western Hemisphere purchase limitation in the No. 2 fuel oil program for District I. This will enable independent deepwater terminal operators to purchase more reasonably priced supplies available at European refineries.

2. An immediate increase in the import level under the No. 2 fuel program from 40,000 barrels per day to 100,000 barrels per day.

3. An immediate confirmation that the No. 2 fuel program will be extended through 1972.

4. On January 1, 1973, complete decontrol of No. 2 fuel oil imports into District I (the East Coast).

HUMBLE OIL PRICE SCHEDULE, NO. 2 FUEL OIL—CARGO (WHOLESALE) PRICE

[Cents per gallon]

	Boston Harbor	New York Harbor
resent	10.8	10.6
May 1	11.1	10.9
Nov. 1	11.4	11.2
Dec. 1	11.7	11.5
Jan. 1, 1972	12.1	11.9

[From The Journal of Commerce and Commercial, Apr. 19, 1971]

HEATING OIL FIRMS FEAR NO. 2 FUEL SUPPLY PINCH

(By J. A. Adler)

The oil heat industry, which survived the 1970–71 heating season without the predicted disruptions in fuel supplies for home heating, is still very much afraid that a serious shortage of Number 2 distillate fuel may materialize this coming winter.

In fact, spokesmen for several major northeastern marketers are predicting that Number 2 oil, the standard home heating product, may reverse the normal trend towards lower prices in the summer and actually increase in price in anticipation of cold weather shortages.

Major reason for the concern is that air pollution control regulations taking effect in a number of states this fall may require marketers of heavy fuel oil for industrial heating and power to blend their products with low-sulfur "gas-oil." Gas-oil is a petroleum distillate that would ordinarily be refined into Number 2 oil, and its diversion for blending with heavy fuels may place serious supply pressure on the Number 2 oil product.

UNPREDICTABLE SITUATION

It is impossible now to predict how serious the supply pinch might become. Refiners and marketers, who have historically considered distillate fuel oil a higher-profit item than heavy fuel, will probably try to protect their Number 2 oil customers as long as possible, but industry sources say that if all pending air pollution restrictions take effect as scheduled, a serious problem may materialize. At least one major oil company is understood to have notified its independent dealers that it may have to cut their allocations next winter.

One of the most stringent sulfur restrictions in the country—which would limit many users to fuel with a sulfur content of not more than 0.37 per cent—will go into effect for the New York City metropolitan area on Oct. 1. At the same time, if a bill under consideration in the city council is passed, the city proper would have an even more strict 0.3 per cent requirement, compared with the 1.0 per cent limitation now in effect.

In addition, the state of Connecticut is imposing a 1 per cent sulfur limitation in the fall of 1971, and the Commonwealth of Massachusetts will forbid the burning of fuel with more than 1 per cent sulfur outside the Boston area, and halve the ceiling within the "Boston airshed" to 0.5 per cent.

The 0.5 per cent restriction for the Boston area has been a source of such concern to Massachusetts industry that the New England Council, a manufacturers' and industry association, has petitioned the state to postpone enforcement of it for at least a year. Informed sources are less than optimistic that this request will be granted.

Number 2 fuel oil, which is produced by distillation of crude petroleum in the refinery, typically has a sulfur content within all these limitations. Numbers 4, 5, and 6 fuel oil, on the other hand, are the "residual" products remaining behind after the distillates are taken off, and these have untreated sulfur contents as high as 2.8 per cent.

LOW-SULFUR PROBLEMS

Low-sulfur residual fuels can be produced in three ways, an industry source points out: by starting with low-sulfur crude oil, by removing the sulfur in the refinery, or by blending with low-sulfur distillate fractions.

The United States produces a lot of low-sulfur crude, but for various technical and economic reasons very little residual fuel is produced from domestic crude oil. The largest portion of residual fuel sold in the Northeast comes from Latin American crude petroleum, which has a moderate-to-high sulfur content. The refineries that process Latin American crude in the Caribbean are building de-sulfurization facilities, but these are expensive and most will not be on stream to help with the 1971–72 heating season.

Hence, marketers may have to resort to blending to obtain fuel meeting legal specifications. As far as users of residual fuel are concerned, it will make their produce more expensive, and also change the burning and pouring characteristics of the fuel, requiring some adjustment in equipment.

For users of Number 2 fuel oil, it may well mean that prices will increase above present levels, which are themselves 10 per cent or more above prices prevailing a year ago. The New York wholesale market is just now soft with most marketers selling 0.3 cents or more below list reflecting a recent drop in cargo

prices and a good inventory position built up during a winter noticeably warmer than last year's. But resellers of distillate fuel oil, hedging against a possible early end to discounting from their suppliers, are generally not reducing tankwagon posted prices.

One way to ease the possible shortage, according to a highly-placed industry source, would be to ease the quota which limits northeastern importers to 40,000 barrels per day of distillate fuel, and requires them to buy it from Western Hemisphere sources. If this does not materialize, some companies are hoping that the government will permit importers to transfer the portions of their quotas that went unused in the first quarter of 1971, due to heavy inventories, for use later in the year, when the supply pinch may hit the hardest.

[From the Oil Daily, Jan. 29, 1971]

HIGH RESIDUAL, DISTILLATE NEEDS TO RAISE '71 DEMAND 5.8 PERCENT

WASHINGTON.—Total demand for all oils in 1971 will rise 5.8 percent over 1970 with total supply showing a gain of 5.1 percent, the Bureau of Mines forecast Thursday.

"The high increase in demand," the bureau said, "is due to the growing demand on residual and distillate fuel oils to meet utility and industrial requirements.

"Air quality regulations in several localities, shortages of coal able to meet the sulfur emission standards, and the unavailability of natural gas supplies for this market has resulted in heavy growth in the demand for distillate and residual fuel oil."

The new supply of oil necessary to meet this increased demand in 1971, the bureau added, will be met by an increase of 151,000 bd in crude oil production, an increase of 55,000 bd in natural gas liquids and other hydrocarbons production and an increase of 485,000 bd in imports of crude oil and products.

"While the increase in imports for 1971 appears high," the bureau commented, "especially for crude oil, which is forecast to increase by 275,000 bd, the reason is that 1970 imports were substantially below quota levels because of the shutdown of the pipeline to the Mediterranean from the Middle East, the production cutbacks by the Libyan government and the transportation shortage which resulted from the longer tanker movement of oil from the Middle East around Africa."

Major increase in refined product imports will be residual, the bureau continued, since refineries in the U.S. produce only 30 percent of residual fuel oil requirements.

Here are highlights from the bureau's forecast for 1971, in thousands of barrels daily, with percentage change from 1970, assuming no change in the overall stock levels for the year:

Supply—crude production, 9,791, up 1.6 percent, natural gas liquids, 1,730, up 3.3 percent, other hydrocarbons, 16, no change, total production, 11,537, up 1.8 percent; imports, crude, 1,593, up 20.9 percent, products, 2,305, up 10.0 percent, total imports, 3,898, up 14.2 percent; unaccounted for crude, 13, and refinery overage, 383 (no changes listed); total supply, 15,831, up 5.1 percent.

Domestic demand—motor gasoline, 6,045, up 4.6 percent; aviation and jet fuel, 1,065, up 3.6 percent, kerosene, 278, up 5.7 percent, distillate, 2,671, up 6.3 percent, residual, 2,469, up 10.6 percent, liquefied gases, 1,343, up 7.6 percent, other products, 1,712, up 4.1 percent, crude oil, 12, no change, total domestic demand, 15,595, up 6.0 percent.

Exports—crude, 2, down 83.3 percent, products, 234, down 2.5 percent, total exports, 236, down 6.4 percent.

Total demand—gasoline, 6,046, up 4.6 percent, aviation and jet fuel, 1,074, up 3.6 percent, kerosene, 278, up 5.7 percent, distillate, 2,674, up 6.3 percent, residual, 2,511, up 100.0 percent, liquefied gases, 1,370, up 7.4 percent, other products, 1,864, up 4.0 percent, crude oil, 14, down 41.7 percent, total demand, 15,831, up 5.8 percent.

Crude runs to stills—11,369, up 4.6 percent.

For February alone, the bureau forecast a crude demand of 9,815,000 bd, compared with a January forecast of 9,940,000 bd and actual demand in February 1970 of 9,316,000 bd; and a demand for motor gasoline of 5,600,000 bd, a gain of 4.8 percent over February 1970, with a gasoline yield of 44.2 percent and total crude runs in February of 11,200,000 bd.

INDEPENDENT FUEL TERMINAL OPERATORS ASSOCIATION,
Washington, D.C., Apr. 14, 1971.

Hon. GEORGE A. LINCOLN,
Chairman, Oil Policy Committee, Office of Emergency Preparedness,
Washington, D.C.

DEAR GENERAL LINCOLN: On February 3, in a submission to you, our Association formally requested that the Oil Policy Committee suspend the Western Hemisphere purchase limitation in the No. 2 fuel oil import program for District I. As you know, that limitation forces persons with allocations to import No. 2 fuel oil into the East Coast to purchase that oil from Western Hemisphere refineries running on Western Hemisphere crude oil.

As we pointed out in our memorandum of February 3, for your convenience, a copy of this memorandum is enclosed, suspension of the limitation is essential because of changed conditions in the Caribbean fuel oil market—namely, the sharp increase in No. 2 fuel oil prices (from 6.5 to 9.5 cents per gallon) since last August; we also pointed out that the market dominance exercised in the Caribbean by two major refiners, who are also our competitors in the U.S. market, places us at a severe competitive disadvantage.

To date, no action have been taken on our request.

The purpose of this letter is to urge expeditious consideration of this matter, in view of the following facts:

(1) The recent settlement in the Persian Gulf and Libya. This will mean greater stability in the Eastern Hemisphere oil markets.

[From Platt's Oilgram News Service, Apr. 16, 1971]

OEP URGED TO END NO. 2 IMPORTS IN 1972, RESUME CURBS ON DIST. 1 RESID

Washington April 15—Interior Department is said to be pressuring oil and energy officials of Office of Emergency Preparedness to terminate in 1972 current program granting allocations to import 40,000 b/d of heating oil from Western Hemisphere to East Coast deepwater terminal operators.

This is on grounds that program adopted on temporary basis in latter part of 1970 and repeated for 1971 allocation year has outlived its usefulness (see 1/5 Platt's OILGRAM News).

At same time, Interior officials have proposed to OEP that because of recent worldwide increase in price of No. 6 fuel oil, consideration should be given to reimposing "quota" system for Dist. 1 imports of resid. East Coast resid imports were exempted from quota in 1966, when system of open-end licensing was adopted.

Recently, however, Administration statements attributed rise in U.S. resid prices to fact that with resid quota-exempt, East Coast prices were directly related to those prevailing in world market and that rise in delivered world prices was being transmitted to U.S. market.

Interior officials have argued that resid decontrol was mistake and resumption of quotas would help insulate domestic resid market from world market influences.

Opponents of this proposal are saying, however, that resid prices have gone up not only in Dist. 1, where no controls exist, but also in Dists. 2–4 where strict quota restrictions are maintained.

In another development, Interior and OEP officials have decided to drop recent proposal to encourage shipments of No. 2 fuel oil from Puerto Rico in order to broaden base for purchases of such oil in Western Hemisphere.

Proposal provided that qualified shippers and marketers of No. 2 from Puerto Rico during current year wouldn't have their 1972 allocations reduced by reason of such shipments into Dist. 1.

Interior Secretary Morton recently ended time restriction on No. 2 imports that would have required that 50% of 40,000 b/d allocated for imports this year be brought in by March 31 (see 3/26 and 3/30 OILGRAMS).

Morton said time limitation was imposed to insure adequate supplies in winter season. He added that, despite "relatively severe winter, predicted shortages didn't materialize, inventories weren't diminished and the full home heating oil import quota wasn't used by oil marketers."

(2) The new tax reference value for No. 2

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fuel oil announced by the Venezuelan Government last month. The additional 1.8 cents per gallon in payments now required on this product destroys any hope for a price reduction in the Caribbean this year and may drive posted prices even higher.

(3) The projected short supply of No. 2 fuel oil in the Caribbean. As the Petroleum Industry Research Foundation, Inc. pointed out in a study released on March 15, immediate consequences of the Venezeula tax changes "might well be to maximize the production of low-sulphur residual at the expense of No. 2 fuel oil." In addition, overall demand for No. 2 fuel oil in the Caribbean is expected to increase in the 1971–72 heating season. An indication of the critical situation ahead: the second largest supplier of No. 2 fuel oil in the area last week served notice that it would have no product available for cargo buyers in the 1971–72 heating season.

(4) The reluctance of the Oil Policy Committee to allow purchase of No. 2 fuel oil from Puerto Rican refineries. Importers are thus cut off from additional supply cources for No. 2 fuel oil in the Caribbean.

(5) The traditional nature of the European fuel oil markets. Prices are more reasonable, suppliers more numerous and quantities much greater in these markets than in the Caribbean. More particularly, during the summer months prices are even more favorable and supplies more available; therefore, if East Coast consumers are to receive some benefits from the No. 2 fuel oil program, importers must have authority to make purchases outside the Western Hemisphere *before May 15*.

We believe that removal of the Western Hemisphere purchase limitation will make the No. 2 fuel oil program more effective, and will assure that ample supplies, at more reasonable prices, are available to the consumers of home heating oil.

For the reasons outlined above, we respectfully request prompt consideration and approval of this request.

Thank you very much.

Sincerely,

ARTHUR T. SOULE.

INDEPENDENT FUEL TERMINAL OPERATORS ASSOCIATION,
Washington, D.C., Feb. 3, 1971.

To: General George A. Lincoln, Chairman, Oil Policy Committee.

From: Arthur T. Soule, President, Independent Fuel Terminal Operators Association.

Subject: No. 2 Fuel Oil Program for District I (East Coast)—Suspension of Western Hemisphere Purchase Limitation.

As you will recall, in a submission to you on October 20, 1970, the Independent Fuel Terminal Operators Association[1] provided

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Footnotes at end of article.

detailed comments on the 1971 No. 2 fuel oil program for the East Coast, as set forth in Proclamation 4018, signed by the President on October 16.

At that time we expressed particular concern about the provision of that Proclamation which limits us to purchase of No. 2 fuel "manufactured in the Western Hemisphere from crude oil produced in the Western Hemisphere.[2]"

We stated that:

"The limitation on Western Hemisphere refineries using Western Hemisphere crude oil (excluding Puerto Rico)[3] has effectively restricted us to purchase in the Caribbean, where two major refiners hold a dominant position. In August these two refiners raised the posted cargo price of No. 2 fuel oil from 6½ to 8½ cents per gallon—more than 30%, thus eliminating any price benefits which might have accrued to East Coast consumers; had cargo postings remained stable, it would have been possible for independent marketers to provide some price stability even with the current high tanker shipment costs. It might be noted that the actual price of No. 2 fuel offered in the Caribbean is, in many cases, even higher than the 8½ cent posting; thus, the cost of No. 2 fuel oil delivered to New York or Boston from the Caribbean is no lower than the cost of domestic oil.[4]"

I. SEVERE SITUATION FACING INDEPENDENTS

Conditions in the No. 2 fuel oil market have become even more severe in recent months.

Three developments should be emphasized.

First, the price of No. 2 fuel oil has risen even higher. Late in November, Shell and Esso raised their cargo postings for No. 2 fuel to 9.5 and 9.0 cents per gallon, respectively, and Esso subsequently moved up to 9.5 cents.

The price progression in the Caribbean is shown in the following table:

NO. 2 FUEL OIL—CARGO PRICE, F.O.B. CARIBBEAN PORTS

[In cents per gallon]

	Esso—Aruba, Netherlands, W.I.	Shell—Cardon, Venezuela
Aug. 1, 1970	6.5	6.5
Sept. 1, 1970	8.5	8.5
Dec. 1, 1970	9.0	9.5
Jan. 1 1971	9.5	9.5

The price of No. 2 fuel oil in the Caribbean is thus *nearly 50% higher* than it was six month ago.

Second, we have now had four months of actual experience under the new import program. That experience has demonstrated that, under present conditions, the Western Hemisphere limitation places us at a severe competitive disadvantage in dealing with the major oil company suppliers who dominate the Caribbean market.[5]

The major oil companies, safe in the knowledge that we cannot purchase oil elsewhere, have no incentive to bargain and have been selling product to us at the posted price, and in many cases, even higher. Even at the posted price, the cost of the oil delivered to East Coast ports is *higher than the domestic price*, as illustrated in the following table:

DELIVERED CARGO PRICES NO. 2 FUEL OIL, EAST COAST PORTS

[In cents per gallon]

	From Caribbean refineries	From domestic refineries
To New York	11.75	[1] 10.9
To Boston	11.75	[1] 11.1

[1] Established by Humble-Esso.

Despite the fact that much of our oil has been imported at premium prices, most of the import allocations for 1970 were used. Our members were simply unable to secure sufficient supplies from domestic sources at competitive prices, reflecting the continuing relative decline of domestic output of No. 2 fuel oil.[6] The import allocations have been vital to assuring an adequate supply for the heating oil markets of the Northeast in 1970; they will play an equally important role in providing supply in 1971.

In sum, our experience in negotiations with refiners for supplies of No. 2 fuel oil has been discouraging. The majors, by the timing of their price increases since August 1,[7] have deliberately siphoned off all price advantages of the new No. 2 fuel oil import program. We are forced to pay exhorbitant prices; they are reaping great profits. The Western Hemisphere limitation had made it possible for them to do so.

Third, the sharp increase in taxation of oil companies approved by the Venezuelan Congress and President on December 17 appears to destroy any hopes for a reduction in Caribbean product prices. Statements issued by Shell Oil Venezuela and Creole Petroleum (Esso of Venezuela), regarding the impact of the new revenue measure, imply that Caribbean prices will rise even higher in the future.

II. WESTERN HEMISPHERE LIMIT WEAKENS PROGRAM EFFECTIVENESS

The purposes of the No. 2 fuel oil program for District I are clearly expressed in the White House statement of June 17, 1970:

"To alleviate . . . the price, the supply and the competitive situation in connection with No. 2 fuel oil . . . on the East Coast particularly New England and the Middle Atlantic states."

At the time, conditions in the Caribbean market justified the imposition of a Western Hemisphere purchase limitation; the limitation appeared consistent with the objectives of the new program.[8] However, as pointed out above, conditions have changed, and two of those objectives[9] have not been achieved, because the Western Hemisphere limitation has:

Enabled the major oil companies who dominate the Carbibbean market to raise the *price* of No. 2 fuel arbitrarily and sharply;

Placed independent marketers at a severe *competitive disadvantage* in dealing with these companies.

The price and competitive factors are, of course, critical to our survival as an independent segment of the oil business. And No. 2 fuel must be available at reasonable prices, so that relief can be provided to home heating oil consumers of the Northeast.

In brief, the Western Hemisphere purchase limitation has made it impossible to achieve the objectives announced by the White House last June.

III. NO ADVERSE IMPACT ON U.S. SECURITY

Suspension of the Western Hemisphere purchase limitation would, under present and foreseeable circumstances, have no adverse impact on national security.

We recognize the security implications of undue reliance on non-Western Hemisphere sources; however, the following developments relating to the source of oil imports demonstrate that the proposed suspension will not result in such increased reliance:

First, the recently announced increases in *crude oil* imports are largely from Canadian sources;

Second, the elimination of the historic finished product import program means that there has been net reduction in 1971 of at least 40,000 b/d of *finished product* imports that could have been imported from Eastern Hemisphere sources.

In sum, there would be no net increase in imports from non-secure sources if we are able to import No. 2 fuel from outside the Western Hemisphere. Moreover, it is highly unlikely that we would actually purchase significant quantities in the Eastern Hemisphere since suspension of the purchase limitation would undoubtedly result in more competitive price behavior by Caribbean refiners.

IV. SUSPENSION OF LIMITATION

In a letter of August 13, 1970, the Oil Policy Committee recommended to the President that consideration of a tariff system for control of imports be discontinued because of "recent developments" and because "we have a more severe problem than we estimated six months ago".

As outlined above, similar developments and problems have arisen in the No. 2 fuel oil market since initiation of the fuel oil import program last June.

Therefore, we respectfully request that the Oil Policy Committee consider and recommend to the President adoption of the following amendments to the No. 2 fuel oil program for District I:

1. Immediate suspension of the Western Hemisphere purchase limitation, to enable persons who have 1971 No. 2 fuel oil import allocations to purchase supplies from any source.

2. Establishment of a review procedure under which any Government agency or other interested party may request the Oil Policy Committee to reimpose, for good cause shown, that limitation.

TEXT OF PROPOSED AMENDMENT TO PROCLAMATION 3279, AS AMENDED

1. In subsection 2(a)(1)(ii) delete from the last sentence the phrase—

"Manufactured in the Western Hemisphere from crude oil produced in the Western Hemisphere."

2. At the end of the subsection *add* the following proviso—

"Provided, that the Secretary may, during any allocation period, require that a portion of the No. 2 fuel oil imported must be manufactured in the Western Hemisphere from crude oil produced in the Western Hemisphere."

MEMBERS

INDEPENDENT FUEL TERMINAL OPERATORS ASSOCIATION

Belcher Oil Company, Miami, Florida; Burns Brothers Preferred, Inc., Brooklyn, New York; Cirillo Brothers Terminal, Inc., Bronx, New York; Colonial Oil Industries, Inc., Savannah, Georgia.

Deepwater Oil Terminal Quincy, Massachusetts; Eastern Seaboard Petroleum Co., Inc., Jacksonville, Florida; Gibbs Oil Company, Revere, Massachusetts; Meenan Oil Company, New York, New York; Northeast Petroleum Industries, Inc., Chelsea, Massachusetts.

Northville Industries Corp., Melville, New York; Patchoque Oil Terminal Corp., Brooklyn, New York; Ross Terminal Corp., Bayonne, New Jersey; Seaboard Enterprises, Inc., South Boston, Massachusetts.

Tappan Tanker Terminal, Inc., Hastings-on-Hudson, New York; Union Oil Company of Boston, Revere, Massachusetts; Webber Tanks, Inc., Bucksport, Maine; Wyatt, Inc., New Haven, Connecticut.

FOOTNOTES

[1] The Association is composed of 17 independent deepwater terminal operators along the East Coast from Maine to Florida. A membership list is included with this memorandum (Attachment A). All members own or control deepwater terminal facilities capable of receiving ocean-going tankers and none is affiliated with a major oil company. All are qualified participants under the No. 2 fuel oil program established by Presidential Proclamations 3990 and 4018 and Section 30 of the Oil Import Regulations.

[2] Section (2)(a)(1)(ii) of Proclamation 3279, as amended; see also Sections 30 (b) and (g) of the Oil Import Regulations.

[3] Proclamation 3279, as amended by Proclamation 4025 on December 22, now permits purchase of No. 2 fuel oil from Puerto Rican refineries under appropriate regulations. We understand that proposed regulations will be published in the near future.

[4] Submission to Oil Policy Committee from Independent Fuel Terminal Operators Association, October 20, 1970, pp. 2–3.

[5] Esso and Shell control approximately 70% of crude oil producing capacity and 60% of the refining capacity in the Caribbean.

[6] See projections of No. 2 fuel oil supply and demand in Attachment B, Submission to Oil Policy Committee from Independent Fuel Terminal Operators Association, October 20, 1970.

[7] We are aware of no added cost factors that would justify increases of this magnitude—nearly 50%. And the timing of the price moves—in August (summer price increases are highly unusual) just as final regulations were promulgated and just before we received our import licenses—would lead one to believe that the moves were closely related to the new program.

It might be noted that Esso (Humble Oil) also exerts dominance over the *domestic* cargo prices of No. 2 fuel oil along the East Coast; the clearest evidence was the three stage increase (on October 1, December 1, and January 1, 1971) of .9 cent announced by Humble last April and carried out by Humble, as scheduled. The recent history of No. 2 fuel cargo and rack price moves along the East Coast provides little evidence of the existence of competition.

[8] An additional objective of the program was, of course, to provide greater access to the U.S. market for Venezuelan crude oil and products made from that crude oil. Current price and supply conditions in the Caribbean—as well as the recent Venezuelan tax increase—provide strong evidence that demand for Venezulean crude and products is high, and will continue to be so; hence, justification for a special preference—involving only 40,000 b/d of oil—no longer exists.

[9] In a third respect—supply—the new program has made a significant impact, and provided a vital increment to heating oil stocks in the Northeast.

A TRIBUTE TO J. EDGAR HOOVER

HON. DELBERT L. LATTA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 10, 1971

Mr. LATTA. Mr. Speaker, I am deeply honored to join my colleagues in paying tribute to our very able and dedicated Director of the Federal Bureau of Investigation, Mr. J. Edgar Hoover, on this anniversary marking almost a half century of distinguished service to America.

Every citizen of this country owes a debt of gratitude to this great man who has been responsible for monumental achievements in the field of law enforcement and is a bulwark in the security of our great Nation. It is most unfortunate that unscrupulous means are being employed by a certain element to discredit Mr. Hoover and bring disgrace upon our Nation. Whether it be for political expediency or for whatever ulterior motive, it should not be allowed to continue without strong opposition.

I am confident that the great majority of Americans share my sentiments with respect to Mr. Hoover and the real gratitude we owe him in appreciation for his dedicated efforts to protect all that we hold dear in this country. I am proud to join my colleagues in paying respect to the Director of the Federal Bureau of Investigation, Mr. J. Edgar Hoover.

VIOLENCE A WAY OF LIFE?

HON. F. BRADFORD MORSE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. MORSE. Mr. Speaker, in this day and age of increasingly widespread anxiety and frustration over our involvement in Indochina, and in this era in which that which is deemed newsworthy is very often the "spectacular" or of a crisis nature, it becomes very easy to condemn wholescale for what is in reality the excesses of a small minority. In our concern, we are too often led to decry the symptoms of the malaise which seems to afflict many of our youth today, at the expense of an understanding as to the legitimacy of the causes for their discontent. And it is the almost inevitable result of such oversimplification and overgeneralization to conclude that violence is a way of life today.

As weary as we might be of the turmoil which this country has experienced over the past several years, it is nevertheless critical to avoid such simplistic reasoning if we are to continue to seek meaningful solutions to the problems at hand. Similarly, it would be a grave disservice to those who are conscientiously concerned with the future of this Nation to assume that all who participate in protests are wedded to a doctrine of anarchy or confrontation.

To do so, as was pointed out in a recent editorial in the Lowell Sun, is not only to overlook the changing character of these demonstrations, but also to blind ourselves to the new situation facing today's youth. I commend this outstanding and most compelling commentary to every one of my colleagues; it offers not only the reasoned approach by which we will better understand today's youth and the nature of its concerns, but also gives reason for hope in tomorrow.

The editorial follows:

[From the Lowell (Mass.) Sun, May 9, 1971]

VIOLENCE A WAY OF LIFE TODAY?

A school principal, weary of turmoil caused by some of students who have heeded the words of agitators working among the young, told his school committee one day recently that "violence is a way of life today".

It is true that there is violence in our cities, in state capitals and in the nation's capital stemming mainly from opposition to the Indochina War and to the continuance of the draft—and because of these the agitators for dissent concentrate on the young who are most directly affected.

But it also is true that the extent of violence in demonstrations today is far less than it was a few years ago and the number of persons involved in this violence is minute compared to the number who merely protest.

In fact, most of the violence that has occurred during the recent demonstrations has been due to some of the leader-agitators who feel that they are above the law.

The great majority of the demonstrators by their own performances have indicated that their desire is to join "for the fun of it" and to flaunt the authorities while having their "fun".

Violence such as occurred at Washington after the Dr. Martin Luther King and Sen. Robert F. Kennedy assassination, or Columbia University in New York, and at Berkeley in California some years ago was far worse than anything seen recently, and we hope the trend for peaceful protests will continue, as these are far more effective over the long run.

Far more serious than these "peaceful protests," is the work being done by agitators—many of whom appear to have been trained to disrupt the government—in the slums and among underprivileged—in the ghettos so to speak. The most serious examples of this anarchism today are in California, where the bomb has replaced the shouting and stone hurling.

With the exception of these areas, what violence there is today is not so worrisome considering the great change which has taken place in our nation and still is taking place.

What are these changes?

First on the list to do with the young people. A few years ago they knew that even before graduation day at college they had jobs that paid enough for them to move right ahead to establish their own families. They felt their future was assured. High school students saw this and moved toward the same goal, and those who couldn't go to college found jobs without much difficulty.

Then came the crash. Inflation rose alarmingly and steps taken to slow it resulted in people in all job classifications from common laborers to executive being out of work.

Today, the young people look ahead into dark clouds. They had not lived through any recession before, and their parents had ridden the tide of boom time and given no thought to what had to happen.

The young people had seen nothing but prosperity when, almost overnight, the bubble burst. Colleges were crammed but the golden goal of immediate employment at relatively high wages had disappeared for most.

Degrees no longer meant instant employment and while this hit hardest at the college students, it reflected back on the high school students who suddenly realized that a roadblock had fallen on their road to security.

Naturally this had an effect on the youngsters, it opened the door to agitators; it encouraged protests even down to seventh graders.

The road to the goals of "two chickens in every pot" and "two cars in every garage" seemed much more difficult to traverse.

Some blamed government at every level, even down to their local school officials, and developed an inner sense of rebellion against law and order. They built up a desire to run things themselves and to reject the advice of their parents, teachers, ministers and all others who were older than themselves.

But to the great majority of these young people now has come realization that the situation existing today cannot be remedied by the wave of a magic wand, that their country is in real financial trouble, that the change-over from a war industry to a peace industry is discouragingly slow, and that they must compete for jobs today on their own.

They realize too that this country has lived through many recessions and depres-

sions and has grown stronger after each recovery—and they hope that the same thing will happen at an ever faster pace today.

All in all, though it is apparent that there is a decided feeling of unrest today, it appears that violence is the way of life for only a relatively small minority of our people, and that most have faith in their country.

EDUCATING UNION MEMBERS TOWARD A WORLD OUTLOOK

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. FRASER. Mr. Speaker, a University of Minnesota professor, Emil Starr, is coauthor with Alfred O. Hero, Jr. of the Reuther-Meany Foreign Policy Dispute. About a year ago, Messrs. Starr and Hero published in the War/Peace Report two articles which grew out of the extensive research for their book.

One of the articles was "Educating Union Members Toward a World Outlook." The authors consider a subject I recently focused on while preparing a paper for the Development Issues Seminar series at the Overseas Development Council—public opinion and foreign policy. The Starr-Hero analysis of union leadership and rank-and-file views is a good one.

The article follows:

[From War/Peace Report, March 1970]

EDUCATING UNION MEMBERS TOWARD A WORLD OUTLOOK

(By Alfred O. Hero, Jr., and Emil Starr)

This is more than ever the age of giant compounds of men, products and services—huge corporate industries, sprawling governmental bureaucracies and mammoth trade union establishments—ostensibly organized to meet the demands of a complex consumer society whose rafters and—perhaps—foundations have begun to creak for need of basic reform.

If social change begins in any important sense in the minds of ordinary men, if a society can change only as fast and as much as the interests and the values and the thinking of its members will allow, it behooves those of us who are concerned about the health of society to appreciate these limitations. This is probably as true for those of us with a special interest in world affairs as it is for those primarily concerned with other facets of society.

If this analysis is valid, one question that needs to be asked is this: What is the relationship of the thinking on international issues of top leaders in these large institutions to the thinking of the ordinary rank-and-file under them? Consider the field of our study, labor: When a Reuther or a Meany issues a statement on foreign affairs, is it to be construed as an accurate reflection of the attitudes and beliefs of the people to whom he is responsible? Is he speaking *for* or *to* his constituency, or both? If he is speaking *to*, what is the impact of the views he expresses upon those who make up the organization he leads?

Last month we reported on the split between the A.F.L.–C.I.O. and the U.A.W. on the personal break between their presidents, George Meany and Walter Reuther, and especially on the role of foreign affairs questions is contributing to this division. We observed that the public postures of the U.A.W. have been consistently more favorable than those of the A.F.L. (and, since 1955, of the merged A.F.L.–C.I.O.) toward a liberalization of U.S. relations with the communist world and greatly expanded economic aid to the Third World; that the U.A.W. has also been more favorable to a shift of emphasis in American foreign policy from military means to negotiation, diplomacy, economic cooperation, international cultural exchange and other nonmilitary programs, and that the automobile union has supported liberalized trade more than the Federation. Before the 1955 merger, the international positions taken by the C.I.O. and most of its affiliates were closer to those of the U.A.W. than to those of the A.F.L.

Here we ask: To what extent do the international views and frames of reference that typify top leadership in U.S. trade unions (particularly those of Reuther and Meany) represent those of lower level union leaders and the rank-and-file?

A number of national surveys conducted since the mid-1930s by four different agencies indicate conclusively that few, if any, of the differences over foreign affairs between the leadership of the C.I.O. and that of the A.F.L. prior to the merger were reflected in the thinking of their respective memberships. Thus, although the top C.I.O. leadership argued consistently during the initial postwar decade for less "hardline" policies vis-a-vis the communist and neutralist worlds than did their counterparts in the A.F.L., the respective general memberships of both unions differed little on these issues. Even during the period of Walter Reuther's presidency of the C.I.O., from 1952 until the merger in 1955, members of its unions were no more apt than were members of A.F.L. affiliates to approve of the liberal foreign policies advocated by the C.I.O. president, or the public statements made at its national conventions urging foreign aid an liberalized relations with the communist world. Nor have any marked differences been evident since the merger between the members of former C.I.O. affiliates and their A.F.L. counterparts.

National surveys have not included enough members of individual unions to permit a comparison of their international views over the last generation and a half. But it appears that the top leaderships of neither the A.F.L. nor the C.I.O. have had significant influence at the grass roots level in most of their affiliates. Members of these two major labor groups have differed in international attitudes neither from one another nor from the non-unionized public of similar demographic status. Moreover, if the more internationalist and liberal leadership of the C.I.O. and the more nationalist and conservative leadership of the A.F.L had substantially influenced thinking in their locals, then members of many years standing in particular unions should have held views more like those of their respective national leaderships than would be the case with newer members. But surveys show that longevity of membership has not had any observable connection with international attitudes in either organization. Nor have members who have felt more closely identified with their unions held views closer to those enunciated by their national leaders than have more indifferent or nominal union members in either group.

In all trade unions, those of A.F.L. as well as of C.I.O. traditions, the local elected officers, the local officers appointed by them and the more active minority in local union activities were better informed and held at least somewhat less conservative views in foreign affairs in the mid-1960s than rank-and-file union members in the same or comparable locals. Generally, the more responsible the role of the individual in the local, the more likely was he to favor expanded economic aid to nonaligned countries, intensified U.S. efforts to achieve arms control agreements with the U.S.S.R. and other relatively liberal positions.

Almost alone among large American unions, the U.A.W. has for some years made considerable efforts to communicate its declared views on world affairs to its locals. *Solidarity*, its monthly newspaper for members, has given prominent coverage not only to the international content of convention resolutions and other official pronouncements of the national union, but also to numerous speeches, statements to the press and other utterances of important U.A.W. officials, in this domain. The union's other publications, intended for important elements in its own union and outside groups, have included substantial material presenting its international views. Consistently, the U.A.W. has not only had one of the strongest educational programs in American labor, but also has incorporated more international content into these programs. Its summer schools for local leaders and activists have for some years usually included at least one two-to-three hour session devoted to this field and its professional staff has been exposed to more intensive programs focused on world affairs, often in collaboration with professional talent from universities.

Our surveys in 1964–65 indicated that the U.A.W. had succeeded more than most other unions in its multiple efforts to communicate its thinking in foreign affairs to its lower level leadership and, to a lesser degree, its membership. Within American trade unions of the mid-sixties, U.A.W. people were at least somewhat more inclined than their counterparts in the A.F.L.–C.I.O. to hold liberal views like those expressed by their leadership. The more frequently, consistently and unequivocally a particular policy orientation had been expressed, and the more it had been taken up in U.A.W. publications and educational programs, the more nearly did opinions at all levels in the union approach those at the top and, likewise, the more did they differ from those prevailing in both former A.F.L. and other former C.I.O. unions. And, the higher the individual in the U.A.W. and the longer his association with it, the nearer did his foreign policy views approach those of the national leadership and those set forth in the union's policy statements.

Differences in international orientations among diverse types of plants organized by the U.A.W. were remarkably small—with at least one noteworthy exception: While there was noticeable concern among workers about the effects of defense cuts on the national economy and on their own livelihoods, this concern was quite expectably heightened among those employed in aerospace, aircraft and related defense plants. Leaders and activists in U.A.W. locals of industries in which exports have vastly outnumbered imports—aircraft, trucks, earth-moving and agricultural machinery—were at most only slightly more favorable to liberalization of U.S. barriers to world trade than their counterparts in automobile parts and assembly operations in which the balance of trade has been much less favorable to American producers.

Negroes at all levels of the U.A.W., as in most other unions, were more apt than whites to express views similar to those advanced by the automobile union's national leadership. But differences among other ethnic groups or among individuals of different levels of educational or regional backgrounds were for the most part insignificant. The level of responsibility in the automobile union proved more important than factors like these.

These findings, particularly within the U.A.W., suggest some educational principles and lines of action for those who would encourage wider understanding of world affairs within American labor or, for that matter, perhaps within many other similarly-complex corporate institutions as well.

Enunciation of equivocal, ambivalent, or half-hearted foreign policy views by national union leaders is unlikely to gain the attention, much less the support of the membership and local leadership of American trade

unions. The fact that local U.A.W. people, including local officers and activtists, were not more favorable than their counterparts in the rest of the union movement to freer trade should probably be attributed largely to the inability or unwillingness of their national leadership to express consistent and unequivocal liberal positions on this issue. If, like the U.A.W., a union repeatedly and consistently expresses more liberal views than those held by most of its members on a particular international question of continuing importance and incorporates those views over a number of years into its various communications—including both publications and face-to-face programs—then apparently the effects on at least the local leadership can be substantial.

It must be added that such efforts have been carried out by a few American unions. Few have paid more than cursory attention to international affairs. Even when the official posture at the national level has been consistent, straighforward and forcefully expressed over extended periods, seldom have the available means of communication been used effectively enough to influence even the local leadership. It is hardly surprising therefore that the impact in this field on local unions has been minimal.

Concerns closer to the economic and working conditions of union members will no doubt continue to dominate most union educational programs. Union officials have argued that it is often hard to get the attention and active participation of members for traditional union matters and very difficult to involve them in activities devoted to such "remote" topics as foreign relations. Even those few unions that have made more than perfunctory attempts to communicate with their locals in this field have succeeded in involving only small minorities, mostly local officers, activists and a few members with international interests. At best, union education in this area has had some direct impact on the more influential, active elements in locals.

Until recently few unions of A.F.L. traditions have had educational programs of any sort. Most summer schools and other educational endeavors for union members have been attended mainly by people from former C.I.O. unions. Those former A.F.L. unions which have participated actively in such "ecumenical" union enterprises or have conducted comparable programs of their own have until very recently been largely in the industrial and semi-industrial sector of the old Federation rather than in the more traditional A.F.L. craft and building trade unions. International affairs has received only minor, if any, attention in most of the Federation's educational programs.

Although U.A.W. educational endeavors in world affairs—like those of most other unions—have emphasized the particular foreign policy preferences of its own national union leaders, its programs on the whole have included more debate, dissent and discussion of alternative interpretations of international issues. Some U.A.W. programs could serve as experimental prototypes for other unions if mutual irritations stemming from the labor movement's divisiveness did not preclude such cooperation. However, even in the U.A.W., there is considerable room for improvement in its overall performance on international education.

American unions, including the U.A.W., will undoubtedly continue to regard their educational programs as a means of communicating their own policy preferences to their own people. However, expanded analysis of alternative views, at least within the range of those held by professionals in international affairs, could not only enliven union programs and make them more attractive to younger, better educated members, but could place discussions of policies favored by the union in a more dynamic perspective. At least in the U.A.W., most participants in summer schools in the mid-1960s preferred more analytical discussions in which alternative points of views were considered.

The distinction between educational programs of the above type and indoctrination with the views of top union leadership is one that has been only infrequently made. Hence, we find that there is little use of outside specialists in international affairs in union programs and little cooperation with non-labor organizations seriously interested in this field. In their educational programs dealing with collective bargaining, labor law and the like, labor educators have increased their use of specialists from university labor programs and other non-union sources. But with only a few notable exceptions, they have not done likewise with specialists in international relations. Even in the U.A.W. of the mid-1960s, such talent was used primarily in intensive programs for professional staff and some local presidents. Jointly sponsored programs with outside groups fairly sophisticated in world affairs have been very few, and most of the little labor participation in activities organized by non-labor groups has been by professional staffers, usually those few particularly interested in foreign affairs.

Many union officials tend to feel that outside specialists in such fields as foreign affairs are likely to talk over the heads of their people, to over-emphasize their own narrow intellectual interests, to behave condescendingly and to communicate ineffectively. At the time of our survey, the impression was still widely held that union staffers, even if their understanding of international affairs was limited, were preferable as teachers and discussion leaders. Staffers, the officials believed, understand their audiences much better, were much more likely to develop rapport with them, and could become sufficiently informed in international affairs to deal with that subject when provided with appropriate materials.

These surmises, however, seem insufficiently self-critical. The foreign affairs materials used in most union education range from mediocre to poor. Relatively few union staffers are reasonably effective in teaching world affairs. Nor is it likely that many unions will devote the time and resources required to expand this qualified minority enough to fill the needs of programs they should have in this complex field.

Unions should be able to develop wider contacts and cooperation between the more internationally alert minorities in their locals and diverse non-union people interested in world affairs in the same localities. Likewise, they could help educational agencies to develop programs that would be attractive to union people and do more to encourage union personnel to take part in them.

Currently in vogue in some union circles is the argument that whatever little attention might be spared for world affairs should be focused primarily or exclusively on international labor relations, activities of unions abroad and other topics of particular interest to unions. This is debatable. Our study of participants in union summer schools and other union educational activities indicates that most of them are at least as interested in general foreign policy issues such as U.S. relations with Communist China, the U.S.S.R. and the Third World, and dealing with the arms race. Moreover, the two kinds of issues can be shown to have intimate relationships. It has been made amply evident that the international aspects of American labor are best understood in a broader international context. Nor should it be difficult to relate issues of national concern such as U.S. foreign trade policy to those issues close to the home and the heart of every union member, such as jobs, foreign competition with products of American labor and the like. Beginning wherever the interests of participants may lie, skilled discussion leaders should be able to lead naturally from one kind of issue to another.

The opportunities for broadening the international horizons of American labor are undoubtedly both numerous and diverse. These opportunities must be located and developed by thoughtful trial-and-error efforts of trade union leaders and educators themselves, but with substantial assistance that should be available from skillful outside agencies. Thus could an important force in the American body politic—organized labor—be moved to some extent toward a more international outlook. And this change of outlook, in turn, might well, in time, significantly influence U. S. policy itself.

A FINE HEALTH PROGRAM THAT SHOULD BE SAVED

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. KOCH. Mr. Speaker, support of H.R. 7657 is increasing. The bill which would extend for an additional 5 years the Children and Youth Comprehensive Health project which are now slated for oblivion as of June 30, 1972 has at this time 41 cosponsors. There are at present 67 programs in 29 States delivering comprehensive health care to 450,000 children and youth of lower socioeconomic levels in central cities and rural areas. These children and youth projects represent one of the major reservoirs of experience in comprehensive health care today, especially to the poor children of the country.

I urge Members to become cosponsors of this legislation. I am appending to my statement further information on some of these programs.

The information follows:

[From the New York Times Mar. 21, 1971]

HOSPITAL'S PROGRAM IS GEARED TO SLUMS

She wore the badge of an administrative assistant. He wore the uniform of an attending physician. Their discussion took place in the tiled halls of a special clinic in a new wing of the Jewish Hospital and Medical Center of Brooklyn.

"Doctor, it's Mrs. M—on the telephone," the young woman began breathlessly. "The baby is sick again. And the mother, she is very frightened. I'll tell her I'll come and get her. All right?"

The doctor replied: "Well, you can if you want to. But look, tell her to bundle up the kids and hop a cab. Tell her we'll pay for it."

Turning to a visitor, the doctor explained: "She can't afford a cab." Then, with a wry smile, he added, "Neither can we. But we've got to get her here."

This midmorning exchange was an apt introduction to Dr. *Frederick L. Tunick*, a pediatrician, and the innovative CATCH program he heads.

A LONG-RANGE PROGRAM

Catch is an acronym for Comprehensive Approach to Child Health, an all-inclusive medical, dental, mental health program offered free to its patients from infancy to age 19. Primarily, it is geared to combat the "crisis care" medical habits of many slum residents.

Before the program started, Dr. Tunick noted, the only time slum families sought medical assistance for their children was "when a kid got hit by a truck, or got convulsions."

"An episodic type of thing," he went on. "Between these emergencies, there was no medical care—no shots, no supervision of growth, no blood tests, hearing tests, dental checkups. Why, 70 per cent of our children never saw a dentist before they came here.

"These people are so involved with shelter, food, jobs, family problems, that a kid with 101 temperature is not a big thing," he explained. "Not because they don't care, not because the big hospital isn't there, but because, in comparison to their other troubles, health is not important. Our job is to sell. If they don't come, we worry. So we go get them."

The program was launched in February, 1967, by a five-year, $7-million grant from the Children's Bureau of the Federal Department of Health, Education and Welfare.

Under the auspices of the large voluntary hospital and teaching institution at 555 Prospect Place, Brooklyn, the program serves a community bounded by Atlantic Avenue on the north, Empire Boulevard on the south, Flatbush Avenue on the west, and New York Avenue on the east. Within those boundaries are about 30,000 children.

"In the beginning, the program had to use a 'hard sell' in the schools and community centers to introduce the benefits of the project." Dr. Tunick said. The first year found approximately 500 patients on the active list. Now there are more than 4,500—and a long waiting list.

The main appeal of the program is the personal care it renders, Dr. Tunick believes. Every patient sees his own doctor, nurse and social worker. They function as a team, and by appointment only.

Most clinics, Dr. Tunick said, "have people packed in like sardines."

"A patient is just a number in those clinics," he said. "He waits and waits and sees a different doctor every time."

The personal touch of the Brooklyn program goes beyond the waiting room, beyond the examination. "We give them eye glasses, corrective shoes, speech therapy, orthodontia. We teach them to call, even just to say, 'My Johnny has a runny nose. What should I do?' And, where we can, we help them at home, and in the community."

Dr. Tunick, who is 52 years old, was a pediatrician for 20 years before he became CATCH director four years ago. He heads a staff of 65, including six pediatricians, five dentists, seven nurses, a psychiatrist, two psychologists, a speech and hearing therapist and 15 social service technicians and case-workers.

Many of the program's staff members were recruited from the community.

"I fell in love with the program because I like what they were doing with my kids," said Mrs. Carmen Fernandez, a recreation technician. "Here you have your own doctor, your own nurse, you feel confident. Here the doctor gets to know you as a person and is really concerned. My little girl had two operations that normally I would not have known about.

"She had a kidney operation and corrective surgery of the eyes. You should see her now, Yolanda. The kids used to tease her, call her 'cross-eyes.' Without these people . . ." She shook her head and sighed.

SOME MOTHERS BABY-SIT

As for her job, she explained: "Mothers bring siblings who stay with us in the recreation room. The children are tense, frightened. We relax them, give them arts and crafts. But our job is not limited. While they're in the room, we observe, see if there is any special problem."

Mrs. Celina Jorge, who wears the badge of psychological assistant, describes her position thusly: "I'm the handyman around here. I do screening. I translate for my people. I teach the staff our language. I go to schools, to the guidance clubs. I do—whatever."

Norma Boyce-El, a Public Health Nurse coordinator, stresses this factor. The Health Department will give immunization, but no treatment after the age of five. We teach people for 20 years that health supervision is necessary. If you reach them, you reach the next generation—their children. In a way, we're working on the next generation."

Withal, the staff and patients of the program are aware that time is running out on the Federal grant. Already, posters are attached to corridor walls signaling in Spanish and English: "Let your Congressman know what CATCH has done for you . . . Send your letters to Congress."

And Dr. Tunick said: "This program should continue under Federal legislation. Only the Federal Government can insure the continuance of CATCH on a permanent basis."

CAUSES OF NEOISOLATIONISM OUTLINED

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. EDWARDS of California. Mr. Speaker, I would like to share the words and thoughts of Mr. Arlen J. Large in his article, "A Cheer for Prudent Isolationism" which recently appeared in the Wall Street Journal. Mr. Large points out, correctly I feel, the depth of feeling of Americans against our involvement in the political conflicts of other nations. He remarks that the American people are fed up with the course America is taking. We all know this is true if we take the time to read our mail. Citizens are tired of being overtaxed to expend billions of dollars in a futile and pointless war. They are tired of being compelled to send their young sons to die in Indochina.

The founders of our great Republic provided that the executive branch should be checked by the legislative and judicial branches especially with regard to warmaking powers. The President was never to assume the kind of personal powers that European monarchs of the day possessed. Unfortunately, these provisions to keep the power of the Nation in the hands of the people's representatives have not worked perfectly. This is partly because of the nature of the House of Representatives, partly because of the nature of modern society and possibly because of the skill of past Presidents in compelling the Congress to do as they wished.

The swift passage of the Gulf of Tonkin Resolution is an example of this. I sense, however, that a new era is beginning. We will, with responsible efforts and with the support of the American people, reassert and reclaim our governmental authority and responsibility. We will end the war and begin the long task of making America the peaceful country it can and should be.

A CHEER FOR PRUDENT ISOLATIONISM

(By Arlene J. Large)

WASHINGTON.—The White House and the State Department worry that the country is turning isolationist. That certainly seems to be the case.

It's getting harder to pass laws in Congress for the involuntary conscription of soldiers. There are demands to cut off arms aid to the Pakistanis until they stop shooting each other. Defense hardware must be sold to Congress as pork, not as the global shield of freedom. Every day, it seems, Sen. Mansfield says we must get out of Southeast Asia lock, stock and barrel.

These symptoms of isolationism have something in common that may be so obvious as to be overlooked. It's not isolationism for everybody, but a selective kind: isolationism *for the government*, for the admirals and colonels and diplomats, for Presidents and Secretaries of Defense. Nobody's complaining about the zestful foreign traveling of individual American tourists, scholars and businessmen.

The demand for more government isolationism comes from resentment over the power of the state to get ordinary citizens involved in professional quarrels between national security bureaucrats, theirs and ours. The Vietnam war is testimony to how that power has grown and how it has been abused. More government isolationism looks attractive because it almost automatically would reduce the state's power over people's lives. Government officials may deplore the new mood, but they have brought it on themselves.

HARMLESS OFFICIAL INTEREST

There's no harm when U.S. citizens, whether or not in the pay of the government, are interested in official doings in foreign capitals. The State Department's dedicated, conscientious Southeast Asia experts have every right to care about which faction of dictators rules in Saigon. Career admirals are understandably concerned about Russian ships sailing around in the Indian Ocean. No one can object if people either in government offices or private homes pay careful attention to movements of boundary lines across the Sinai Desert.

The difficulty arises when these individuals seek to engage the interest of others. Argument may persuade a draft-age kid minding his own business at the pool hall that he has a personal stake in political stability in the Congo, but then again it may not. Should it come to a contest of wills, the draft laws give Washington's geopolitics specialists the winning edge; a young citizen *must* become involved in their contests with foreign geopoliticians, or become a criminal. A middle-aged breadwinner who ordinarily wouldn't consider sending a contribution to King Hussein finds himself doing so anyway, via the Internal Revenue Service.

The breadth of public interest in an international quarrel can be a good test of whether a government's foreign policy is internally despotic. Citizens of Israel and Egypt show no lack of interest in the disputes between their leaders. Many of those people are really mad at each other, killingly so. In contrast, it's doubtful that most Americans in the mid-60s were fighting mad about the need to assure self-determination for South Vietnam. Big-picture officials in Washington thought they could send a precision expeditionary force to help Saigon without whipping the whole American nation to patriotic anger at the enemy.

The hope of U.S. leaders that people would support an emotionless geopolitical war as readily as a patriotic war is reflected in a recent Esquire magazine article by Eugene Rostow, a former State Department official. Approvingly, he recalled that President Johnson "often remarked that for centuries the British conducted limited military campaigns along the boundaries of their influence. 'We have to get used to the idea,' he remarked."

If British monarchs, American Presidents or Soviet dictators conducted their "limited" contests with little wooden counters, their foreign-office rivalries would be more tolerable. Indeed, the readiness of English kings to spend men and money in ceaseless mili-

tary campaigns against other kings haunted the 18th Century drafters of the American Constitution. In every way they could think of, they tried to place the sword and purse beyond the unilateral reach of the President, deliberately ensnaring them in the cumbersome inefficiencies of Congress.

At age 36, James Madison spoke at the Philadelphia convention with as much sophistication about the nature of men and governments as any of today's philosophers of the big picture. "In time of actual war," he told fellow delegates, "great discretionary powers are constantly given to the executive magistrate. Constant apprehension of war has the same tendency to render the head too large for the body. A standing military force with an overgrown executive will not long be safe companions to liberty. The means of defense against foreign danger have always been the instruments of tyranny at home."

Modern executive magistrates like to say that times have changed, that today's technology of war absolutely requires a larger head for the body. But for all the trappings of 20th Century hardware, the Vietnam war is exactly the kind of debilitating conflict the nation's founders tried to prevent. The President in 1965 repelled no sudden attack on the nation with the split-second authority supposedly needed in the atom age. He could as well have sent musket-bearing troops to Vietnam in wooden frigates, using King George's technology to pursue a foreign-policy objective straight out of the era of powdered wigs and buckled shoes.

Indeed, the global responsibilities assumed by Presidents since World War I would require, for complete fulfillment, the power wielded by absolute monarchs. Within his peer group of world leaders a U.S. President is backed by more military might and national wealth than anyone. He should be able to frown, and make others back down. His handicap, though, is what makes him so touchy about isolationism at home: His massive 20th Century power still rests ultimately on an 18th Century set of rules drafted expressly to cut him down. When his home constituency dusts off these rules in a fit of isolationism, or war-weariness or whatever, the President's power shrinks in the eyes of tinpot dictators who may not have hydrogen bombs, but also do not have to face the Wisconsin primary.

There's no question that the Constitution's creaky restraints on kingly behavior by Presidents now are being applied after years of disuse. For the first time in history Congress has employed its appropriations power to restrict battlefield deployment of troops in Indochina by the Commander in Chief. After years of bluffing, the Senate at last may confront the White House over the $14 billion annual expense of keeping U.S. troops in Europe.

Exasperation over Vietnam is even stirring extra-constitutional action in state legislatures, and not just in dovish Massachusetts, either. Last month Congress got a resolution from the House of Representatives of Georgia, of all places, complaining that "the war in Vietnam has affected every county, city and citizen of Georgia to some degree." The resolution said the President should "set a date certain" for getting out.

Vietnam aside, the present President has ordered the removal of some U.S. military forces from Korea, Japan and the Philippines, and has proclaimed a doctrine that addresses the question of U.S. government responsibilities abroad. The doctrine is stated with ambiguous symmetry. "Our experience in the 1960s has underlined the fact that we should not do more abroad than domestic opinion can sustain," the President said in a February foreign-policy review. "But we cannot let the pendulum swing in the other direction, sweeping us toward an isolationism which could be as disastrous as excessive zeal."

Sen. Mansfield, one of the most forceful of Capitol Hill's isolationists, complained in a recent speech of "divergencies, digressions, dodges and delays" in the doctrine's implementation. "The fundamental difficulty," said the Senator, "is that the President and the Congress function in a government grown immense." The great national-security departments continue to generate pressures upon Presidents and lawmakers for policies abroad that, in time, begin running counter to the constitutional goal of securing the blessings of liberty at home.

CONGRESS, TOO

While these pressures impinge more directly on the President, Congress hasn't always been immune to the lure of futile foreign military adventures. In 1812, it observed every constitutional nicety in debating and passing a formal declaration of war before yahooing off to invade Canada. The offhand way in which lawmakers both approved and repealed the Gulf of Tonkin resolution (the House never voted directly on repeal, just accepted it as part of another bill) hardly inspires confidence in Congress as a cool mastermind of foreign policy.

Lenin assured the Russians that upon the maturing of communism the state would wither away. It was, typically of the utterances of bigtime political leaders, flimflam. The Russians are stuck with an elephantine dictatorship, and it's their hard luck that they can't change it.

A degree of withering of our own superstate, in contrast, is possible because, as the President said himself, "We should not do more abroad than domestic opinion can sustain." Whether it comes about by presidential doctrine or pressure from Congress or both, it will make the government a safer companion to liberty. The way things are going, too many Americans are being drafted, overtaxed, killed and dossiered. In the absence of some prudent isolationism for the government, too many people are getting pushed around.

MAY 19—DR. CULBERTSON DAY

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. ASPIN. Mr. Speaker, it is my pleasure to join with the Honorable GENE SNYDER of Kentucky in having May 19 declared as Dr. Culbertson Day. This man has served as president of, and inspiration to, the Moody Bible Institute for the past quarter of a century.

Under Dr. Culbertson's guiding hand, Moody Bible Institute has grown and prospered for the benefit of mankind. Moody has trained more than 10 percent of the missionaries serving all areas of the world today.

It takes a man of rare dedication and concern to bring this about in view of the turmoil we as a Nation face today. I consider myself honored to be able to join with so many others in giving public recognition to Dr. Culbertson and his service to mankind.

DRUG ABUSE EDUCATION SEMINAR

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. BROYHILL of Virginia. Mr. Speaker, my friend and constitutent, Mr. Anthony J. Delpopolo, Sr., a member of the faculty at the Northern Virginia Community College, has recently called my attention to a drug abuse education seminar he is conducting during this coming summer, under the auspices of the Georgetown University continuing education program.

As I believe information concerning this program would be of interest to many of our colleagues and their staffs, as well as area residents concerned about drug abuse, I insert the information concerning the program at this point in the RECORD:

DRUG ABUSE EDUCATION SEMINARS

PART I—FOR PARENTS ONLY—TUITION: $40

This seminar has been designed in response to the need for a reliable source of in-depth information on drugs and drug abuse by concerned parents in our community. There are thousands of pamphlets, books, and fact sheets issued by public and private agencies, but few are understandable and comprehensive enough to be of sufficient value to the parent who wishes to approach the problem of drug abuse with some confidence.

The overall goal of this seminar is to substitute traditional instruction—characterized by exhortation, moralizing and fear-inducing techniques—with sound socio-psychological information. Human motivation and relationships will be carefully examined to supply the skills which enable the parent to detect potential drug abusers and help these abusers resist temptation to experiment with drugs and use them for recreational purposes. This intensive seminar could very well be a positive antidote for the chemical cop-out of an entire generation.

The concern today is greater because drug use for an increasing number of people—notably, among teen-agers, is becoming the means of satisfying curiosity, providing new adventures, and attaining immediate and frequent escape from reality.

The subject matter to be covered in the ten, two hour sessions of the seminar will include such topics as: Drug use and drug abuse—in history and today; the physiological and sociological effects of drugs and drug abuse, the classification of drugs; drug slang; legislation and control of drugs and narcotics; treatment of drug abusers; role of parents in the drug abuse dilemma; and some suggestions how to understand and assist young people to cope with the drug abuse problem.

PART II—FOR EDUCATORS, SOCIAL WORKERS, COMMUNITY, BUSINESS AND INDUSTRIAL LEADERS

(The techniques of instruction and subject matter content for this seminar are similar to those for Part I. However, greater emphasis will be placed on the development of skills which will help professionals cope with the drug abuse problem in the school, in the community, and in various types of large business organizations.)

Anthony J. Delpopolo, Sr., M.A., M.S., D.A.G.S. Lecturer at Georgetown University and Correctional Training for the District

of Columbia Department of Corrections Training Academy, has a broad experience in education, penology, criminology, corrections and sociology.

Part I—10 sessions, Tuesday and Thursday evenings, 7:00 to 9:00 p.m., beginning June 22, 1971.

Part II—10 sessions, Tuesday and Thursday evenings, 7:00 to 9:00 p.m., beginning July 27, 1971.

A COMMON GROUND OF SERVICE

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. MIZELL. Mr. Speaker, I rise at this time to announce that one of our distinguished colleagues and the father of another have been honored by the North Carolina Citizens Association for their outstanding contributions to the State.

L. H. FOUNTAIN, who represents the Second Congressional District of North Carolina, was awarded the Citation for Distinguished Public Service by the association.

Mr. James Edgar Broyhill, father of my good friend, the distinguished gentleman from North Carolina's Tenth District, Mr. JAMES BROYHILL, was chosen to receive the Distinguished Citizenship Citation.

Mr. Broyhill, as many in this Chamber know, is the founder and board chairman of Broyhill Furniture Industries, headquartered in Lenoir, N.C.

I am sure my colleagues in the House join me in congratulating both these gentlemen for this outstanding achievement.

An article telling of these awards and published in the May, 1971, edition of We the People of North Carolina, the magazine published by the North Carolina Citizens Association, is included herewith in the RECORD for the benefit of my colleagues:

A COMMON GROUND OF SERVICE

A Republican and a Democrat . . . a Westerner and an Easterner . . . a manufacturer and a legislator . . . a Baptist and a Presbyterian.

In politics, geography, profession and denomination, James Edgar Broyhill and L. H. Fountain go their separate ways. In service to their native State of North Carolina they stand together on common ground.

They stood on that common ground March 18 in Raleigh to be honored and thanked by the North Carolina Citizens Association for the lifetime of service which each has rendered his State and its people.

Mr. Broyhill is the founder and Board Chairman of Broyhill Furniture Industries of Lenoir. Rep. Fountain, a native and resident of Tarboro, has served in the U.S. House of Representatives from the Second Congressional District since 1953, and for several terms prior to that time in the North Carolina Senate.

Rep. Charles A. Jonas of Lincolnton presented Mr. Broyhill the Association's Citation for Distinguished Citizenship. Associate State Supreme Court Justice Joseph Branch presented Rep. Fountain the Association's Citation for Distinguished Public Service.

Mr. Broyhill was described in his citation as "A mountain man who has been acclaimed as matching the peaks of his homeland; a dirt farmer who planted the seeds of his success not in the soil of his native Wilkes County, but in the men and machines of the infant furniture industry of neighboring Caldwell County; an erstwhile blacksmith who was forged on the anvil of economic and educational adversity; a staunch champion of the free enterprise system and promoter of its benefits; as relentless a competitor in business as he is on the links and a winner in both realms; as loyal to the commoner as to his many noble friends; a benefactor of youth through generous support of education and recreational institutions for their mental, spiritual and physical development; a reluctant but charismatic leader; a nonpolitician's politician; a person of great dedication to church, civic and charitable affairs; father and grandfather in the patriarchal mode; a man of God."

As examples of J. E. Broyhill's distinguished citizenship the citation listed his founding of the Broyhill Foundation which has made higher education possible for many deserving young people; his directorships and trusteeships with the boards of a number of major businesses and major educational and charitable institutions and associations; his receipt of other honors; his role in the founding of such institutions as the Caldwell Memorial Hospital in Lenoir and the Broyhill Children's Home in Western North Carolina; and his extensive political activities which include continuous membership on the Republican National Committee since 1944 and his membership in the North Carolina delegation to the Republican National Convention seven consecutive times since 1944.

Rep. Fountain was cited "for dedicated and devoted service to his fellowman in numerous positions of public trust during the past 35 years."

Examples of his accomplishments included . . . "his tenacious and thorough work in investigating harmful or ineffective medical drugs, as well as other aspects of food and drug safety which has earned him the popular title of 'Watchdog' of the Food and Drug Administration . . . for his distinguished service as a United States Delegate to the 22nd General Assembly of the United Nations . . . for his pioneering effort and continuing leadership in the field of Federal-State-Local relations which led to establishment of the Advisory Commission on Intergovernmental Relations in 1959, and for the farsighted vision which won him national recognition as the 'Father' of the Advisory Commission on Intergovernmental Relations . . . for his statesmanship and leadership in the House of Representatives' Committee on Foreign Affairs, in particular as Chairman of the Near East Subcommittee . . . for his deep-rooted Christian conviction and his lifelong involvement in the work of the Church, especially the Presbyterian Church, both on a national and local level, and his unswerving moral leadership . . . for his unflinching loyalty and untiring adherence to the principle that government is, and should be, the Servant and not the Master of the People. . . ."

Mr. Broyhill was the 21st in a list of distinguished North Carolinians to receive the Association's Citation for Distinguished Citizenship. Rep. Fountain was the third recipient of the Association's Citation for distinguished Public Service, created in 1969.

WE NEED HELP

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. SCHEUER. Mr. Speaker, all of us spend hours searching for new facts and figures and eloquent rhetoric to dramatize and build support for issues that concern us. As a Congressman from New York, I have been marshaling all the arguments I can find to prevent the cutbacks in urban education funds that threaten public schools throughout the State. Yet, I have seen nothing more moving and to the point than the following letter from Willie Brown, P.S. 100 in the Bronx:

From the New York Times, May 18, 1971

A LETTER TO THE GOVERNOR

BRONX, NEW YORK CITY

GOV. N. ROCKEFELLER,

DEAR SIR: I am very Concern about What are going to happen to the world since I am only ten year old. I Still have a long way to go, an if thing dont Change I dont think I have a Chance. so please give us little Childrens a Chance in your world. we ask For so little, only a Chance to get a good education So please give us our money Back. We need it very Bad. I have two sister an one Brother trying hard to get a education if you dont give us a Chance We wont make it, Because my Family is very Poor an they don't have the money to pay For our education. an they are other Family that Can't pay For they Children education, an we all are depending on you to give us our money Back.

We need Help.

WILLIE BROWN,

P.S. 100 Bx., Mrs. Leed Class 4b.

JAMES H. KING, SCHOLARSHIP WINNER IN A NATIONAL SCIENCE COMPETITION

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. BOLAND. Mr. Speaker, a promising young student from my congressional district—James H. King, 17, of Hampden, Mass.—has won a $6,000 scholarship for the science project he entered in a national competition. His entry, a daring and imaginative plan for the undersea transport of crude oil, was among 10 winners in a contest called the Tomorrow's Scientists and Engineers Program. Designed to encourage scientific research among the country's high school students, the program is sponsored each year by the National Science Teachers Assn., the Engineers Council for Professional Development, Scholastic Magazines, Inc., and Standard Oil Co.—New Jersey—a division of Humble Oil and Refining Co.

King and the nine other winners were awarded $6,000 scholarships last night at the program's National Awards Dinner in the Mayflower Hotel here.

Son of Mr. and Mrs. Howard King of 3 Chestnut Hill Road, Hampden, King is a senior at Minnechaug Regional High School in nearby Wilbraham. He plans to begin studies this fall at Webb Institute of Naval Architecture in Glencove, R.I.

I am sure my colleagues join me in congratulating him—and the nine other winners, as well—and in wishing them the best of luck in their scientific careers.

SOMETIMES IT MAKES SENSE TO TALK IN CIRCLES

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. MIZELL. Mr. Speaker, I would at this time like to call attention to a project being conducted by the Container Corporation of America, headquartered in Winston-Salem, N.C., which involves the recycling of used and waste material to produce additional products and to preserve our environment.

Container Corporation, as many of my colleagues know, is the largest recycler of paper fibers in the Nation. Last year, the company's Pioneer Paper Stock Division collected over 1 million tons of waste paper, 10 percent of all the secondary fibers used in the United States.

Most of this paper was used as a raw material by Container Corporation's own mills, which reprocessed the fibers into paperboard that their plants subsequently converted into packages for numerous consumer and industrial products.

To help create a greater awareness of the contribution which recycling can make to environmental quality, Container Corporation developed a recycling symbol to serve as the focal point for an industry-wide program to publicize these benefits.

Thus far, more than 130 companies have applied the symbol to the paper and paperboard packaging products they manufacture. I am sure it is the wish of every Member of Congress that every industry adopt not only the sign, but the policy, of recycling whenever possible.

The symbol—three arrows pointing to each other in a circle—is being featured in an advertising campaign to call attention, not only to the monetary profit that recycling can bring, but to its environmental rewards as well.

Included herewith in the RECORD is the text of one of those advertisements, which appeared recently in the Washington, D.C., Daily News.

SOMETIMES IT MAKES SENSE TO TALK IN CIRCLES

Until now, much of America has made its amazing technological advances in just one direction—straight ahead.

And rightly so. For a young technology, the shortest distance between two points is, in fact, a straight line.

But now America's economy has grown up. Into a sprawling middle age, where even the waste products of our greatness add up to 3.5 billion tons a year.

And it's time to talk about some new directions. By looking back on where we've been.

For example, Container Corporation's Pioneer Paper Stock Division has been collecting recycleable waste paper materials for conversion into paperboard, packaging, newsprint and other useful materials. And we've been doing it for 45 years.

This is not only a profitable way of doing things, it also helps conserve the natural resources that no longer seem in such endless supply. Every ton of waste paper that gets reclaimed leaves 17 trees standing in our nation's forests.

Maybe the recycling of wastes is a roundabout way of doing things. But, at Marcor, we're making it pay off.

RONCALLO SPEAKS ON THE ECONOMY

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. LENT. Mr. Speaker, the Honorable Angelo D. Roncallo, comptroller of Nassau County, delivered a speech to the Electronics Systems Division Management Club of the General Instrument Corp. of Hicksville, N.Y. on Thursday, April 22, 1971, in Jericho, N.Y. In his speech, Comptroller Roncallo discussed the unemployment in Long Island and the effects it has had upon the economy of the area.

Due to the cancellation of numerous Government contracts, many defense workers are jobless; thus Roncallo feels that these workers are deserving of Government support until they can be relocated to another position.

Roncallo calls his program "creative unemployment" and believes that it will discourage these people from going on welfare rolls.

The following speech by Comptroller Roncallo expresses his views on unemployment and the economic situation in Nassau County and it also presents a bold new approach to the situation:

LONG ISLAND'S ECONOMY AND MANAGEMENT OF PUBLIC PRIORITIES

(Speech by the Honorable Angelo D. Roncallo)

Tonight I'm to talk with this group of management professionals about Long Island's economic outlook. I'll provide an overview of Long Island's economy, and then, make some observations about our national economic scene. Because it is effective management of our public priorities and resources, that can make or break our economic health. And, as of late, the tone of conditions around the country have been a fairly good economic indicator of what is happening on Long Island.

Long Island is well aware of our national economic recession. We've been hit particularly hard because of our employment patterns in the manufacturing industry of durable goods. In the past year, employment in this area dropped from 113,000 to 96,000. Thus, this has contributed significantly to a jobless rate of 6.2% in Nassau, 7.9% in Suffolk, and 6.9% in the bi-County area. Approximately a year ago, the unemployment rate figured 4.1% in Nassau, 5.9% in Suffolk, and 4.8% bi-County.[1]

According to the New York State Labor Department, unemployment can be assured of an increase from an average of 46,375 in 1970 to 48,400 in 1972. This would indicate that the jobless rate would fall appreciably from the high percentages it is currently at, yet it will still hover above 5%.

There has been a rise throughout the nation in general, of non-durable goods-manufacturing and services. But of this rise in trades and services, of which, last year, Long Island saw a 5.6% increase, it was still not enough to offset the poor employment market for the Long Island population.

The reasoning: Long Island's orientation is not in trades and services, but rather in manufacturing which makes up 20% of the work force and accounts for more than one-third of the total payrolls. The contribution of Long Island's income from manufacturing remains substantial, even though factory jobs have declined in relation to total employment. Nationally in the private economy, manufacturing commands the largest share of national income—28%, employing about the same portion of the civilian labor force.

On Long Island, it is a reflection of the high technology, highly skilled nature of the industry, in relation to aircraft, aerospace, electrical machinery, and instruments. This type of industry is made up to a large degree of white collar, technical, and professional employees, and highly skilled production workers, who together, have made Long Island, the high wage, high income area it is.

Recently, the *Franklin Letter*, published by the Franklin National Bank showed some statistics whereby the average income for all executives and production workers in durable goods industries in 1969 was $9,464, while in non-durable manufacturing the average was $6,883. The aircraft-aerospace industry paid its workers $11,106, the instruments industry—$10,259, and the electronics machinery manufacturing $8,232. In the non-durables field some examples are paper product manufacturers, an average of $7,599 toys, jewelry, and sporting goods, a price of $6,156, printing and publishing with $8,143.[2]

Nationally, at present our policies are geared in a trade and services increase approach, instead of the improvement in the manufacturing industries. Therefore, if aircraft and aerospace production (two large staple income industries) level off, can Long Island maintain this characteristically high income, high productivity labor force? The future mix of Long Island industry not only will determine the character of Long Island's work force, but the level of its income.

Knowing all of this still doesn't change the price of eggs—it doesn't put any of the estimated 46,000 unemployed back to work. But it does help put the problem into perspective. And we all recognize, that for the man out of work, the unemployment rate is 100%. Being without a job not only means a waste of resources, but a loss of human dignity.

Because of the current management of public priorities and resources, Long Island has fallen and economic victim of suffer and surrender. Yet, I am told that on Long Island, the defense, aircraft, and aerospace picture is not as bleak as it is in the rest of the nation—huge pockets of defense, aircraft, and aerospace industry have suffered worse adverse effects, in places like the State of Washington, and California, all around, from coast-to-coast. But Long Island has felt its pinch—metal fabricators between 1969 and 1970 eliminated 2,300 jobs, instruments and electrical equipment makers shut out 7,000 jobs, aircraft and aerospace fields let go approximately 8,000 employees. This is not to include employment cuts in-process or being planned for this year. Grumman Aerospace Corporation is eliminating another sizeable piece of its work force. We hear of Sperry's continual instability, on a meager brink of existance.

Since our local economy is a part of our national economy it is important to ask what are the broad outlines of the national economic picture upon our local future. Let me caution, that even our leading economists have not always accurately predicted this future, so I will not pretend here to give an absolutely reliable reading of the economic crystal ball. But maybe we can reconcile some of our economic problems, by a prophecy of priorities. How are they currently being managed? Where are our resources being committed, to create this present economic condition—a condition unfavorable to Long Island, as well as many sectors of the nation.

[1] Statistics from New York State Department of Labor, Bureau of Statistics, Hicksville Division, April 16, 1971.

[2] Taken from *The Franklin Letter*, published and distributed exclusively by the Franklin National Bank, March 1971.

What we have witnessed in America is a swift re-structuring of priorities from manufacturing of military-defense goods and related equipment, to society's call for increased trades and services in the areas of health, education, and welfare. Roger Freeman, a former Special Assistant to President Nixon, and currently Senior Fellow at the Hoover Institute on War, Revolution, and Peace at Stanford University recently reviewed the new management of priorities in a speech in California. He said: "The demand for a 'reordering of national priorities' has been strong in recent years and appears to be growing in intensity and power as time goes on. It rests on the basic proposition that military expenditures have risen out of proportion in the past few decades and need to be cut back, while civilian public services have been starved, in absolute as well as in relative terms, and should be lifted to substantially higher levels. Thus, the drive to reorder national priorities aims to multiply public funds for domestic functions, particularly in the field of social welfare, and to clip defense appropriations commensurately."[3]

Freeman cites that defense costs went up 57% between 1952 and 1971 which is just barely ahead of the simultaneous rise in prices; in relative terms, defense fell from 66% of the total budget, to 36% from 13.6% of the Gross National Product to about 7.1%. Spending for domestic purposes meanwhile, multiplied 7.6 times (662%) and its share of the budget jumped from 17% to 47%. Outlays for Health, Education, and Welfare multiplied 12.4 times (1142%), for all other domestic purposes combined, 3.2 times (219%).

We have seen an abrupt turnover in production for defense and material hardware, as opposed to human resources and the welfare state, which has become more favorable. I believe that, *The Military Establishment*, a new book by Adam Yarmolinsky, former Deputy Assistant Secretary of Defense for International Security Affairs, with his indictment of the military society that we live in, (where he concludes that almost everything in our entire lives is related to military and defense) is a reflection of the times and sentiments of many of our national figures and leaders.

In more direct terms, we have seen resentment and hostility to programs such as continued space appropriations, the SST, the ABM system—programs and concepts that would have meant direct employment opportunities to Long Islanders. Yet, in Nassau County's municipal operation alone, we've seen the public payroll rise to 20,000 or double the figure of only a decade ago. In fact, nationally, state and local government employment increased 136% between 1952 and 1970, or about four times faster than the population and labor force. The most spectacular expansion on the federal payroll occurred in the Department of Health, Education, and Welfare, whose staff ballooned from 35,000 in 1953 to 107,000 in 1970.

We have seen welfare increase in Nassau from $11 million in 1960, to $95 million in 1970, a jump of 900%, in a period where population increased by only 15%. In New York City, which is not typical of the rest of the country, but epitomizes and foreshadows trends and developments elsewhere, a look at its welfare situation is enlightening. In a world hub of trade, finance, commerce, and industry, the number of welfare recipients jumped from 328,000 in 1960 to well over one million in 1969, growing annually by 60,000. According to the City Social Services Department it may soon be that three million out of New York City's eight million inhabitants will be on welfare.

[3] Roger A. Freeman, "National Priorities In the Decade Ahead", delivered to Hoover Institution Conference, Pasadena, California, November 8, 1970.

The United States has shifted "from the warfare state to the welfare state" during the past decade. But what harvest has it reaped from this changeover? What is the return on the $200 billion which we now invest each year in social welfare and domestic services . . . The welfare state is here.

But I do not intend to argue the pros and cons of the military-industrial complex or the welfare state tonight. But directly on Long Island, as in other pockets of defense industry around the nation, we have seen the effect of cutting the share of national defense from one-half to one-fourth of our combined public budgets.

So how does Long Island's economy relate to this management of national priorities? At the same time, what can those in the defense, aerospace, aircraft, and electronics industries do to prevent continued economic regression as a result of the national priorities management dilemma.

We have discussed tonight, unemployment and the welfare state. But I would like to break unemployment problems into three different categories. The first type we have suffered from somewhat, is manpower obsolescence—where new technology, computers for instance, have displaced the skills and abilities of employees, and outstripped them of their usefulness or capacity to work. The solutions that have been tried are re-training programs, that have met with only marginal success. Often, these people, lacking the education required, end up on the public welfare rolls.

The second type of unemployment is the result of a general economic recession, where jobs are cut, profits are low, often resulting in corporate losses, and where a portion of the labor force from menial worker to professional worker, loses employment. The answer is to initiate economic policies to stimulate the economy, and thus, put everybody back to work. It is this form of unemployment that we are currently suffering from.

Yet there is still another kind of unemployment, that those in the defense, aircraft, aerospace, and electronics related fields are victims of. It is this particular unemployment problem which I would like to focus attention on and would like to see transformed into a 'creative unemployment package'.

'Creative unemployment', in my opinion, is the panacea to the workers in the defense-related industries. It is a conservative concept within the liberal spectrum of public welfare. Too often, the current methods of alleviating unemployment and the welfare dole, serve as an 'economic narcotic' perpetuating a debilitating dependence and moral decay. But 'creative unemployment' takes on the commitment of making the period of one's unemployment useful and constructive to the national economy.

It is the type of welfare reform that we can institute for the thousands of defense technicians who are victims of the 180° turn that society has made in its management of priorities. Now let me ask, how are these people different from typical welfare recipients or so-called hard-core unemployables?

Do you recall that since the end of World War II, the United States government with the Congress, and the actions of our national leaders, through our educational systems, and the American people, alerted us to the technology deficiencies that America suffered from? We were then told, that we would never catch up.

Do you recall the Russian Sputnik in the mid-fifties with our leaders saying that America had been too lax, that we would have to change our entire American system in finance, production, and education to re-capture our pre-eminance in science and technology.

Well, as a result of society's demand twenty years ago, tens of thousands of people took up the call, and made a heavy investment in technical education to acquire those prerequisite skills necessary to apply themselves, with a commitment until now of twenty years in the technological and scientific fields.

This is the worker that has been the backbone of America's production in the past twenty years, and make no mistake about it, he has served America well, making our technological prowess second to none in the world. Yes, we as a nation, twenty years ago, made that commitment to this segment of our society.

Yet, as the winds of change usher in a new era, for probably good and sufficient reasons, society is turning around to say, "We don't need you anymore—even though you've been established twenty years in the field. America is tired of aerospace programs, aviation, electronics, and instrument designs." It is apparent from where this nation headed, as I earlier pointed out, that the demand is now for social technologists, instead of industrial technologists. But what happens to these workers who have contributed so much to develop the fiber of American strength?

This is a type of unemployment that is fundamentally different, because the resources, abilities, and manpower of the people employed in the high technology industries has proven itself in the past, and can once again make an invaluable contribution to American production in new forms of technology namely in the areas of pollution, agriculture, and a revitalized space program. But this is a transition that is difficult to make for the man of forty-five with a family. And America owes it to these people to make a more ambitious effort to help them, who are now unemployed, to continue to live and pay taxes, purchase goods, work for a living, and maintain their self-respect. 'Creative unemployment' will provide the period of rapid re-adjustment needed to let the technologically unemployed worker make a transition to productive employment.

I propose that the Congress move in, and grant all the workers in the defense related fields—aerospace, aviation, electronics, and instruments—who have been laid off, due to the turn of priorities in America, a full year's salary, based on their position. This, in turn, would serve as an allowance, for the unemployed technician to seek new employment, re-locate, and if necessary retrain, within the space of a year. In no sense, am I proposing that these people be put on the public welfare rolls. We owe it to them.

The American society must give them a year to find a new and productive occupation. At the same time, I call on Congress and the Nixon Administration to mobilize every resource available, to re-locate in new jobs the skilled technician who has lost his job. This can be done gradually through the use of Federal computer job banks. And as the demand for new markets in technology increases, this priceless manpower asset will be re-absorbed into our economy.

Meanwhile, society cannot afford to leave these people in the lurch. By carrying out 'creative unemployment', we are exercising both economic and moral responsibility not only to technological labor, but to every man's labor. Unemployment is uneconomical, because it kills incentive, and demoralizes the individual. However, my proposal for 'creative unemployment' will not result in any of these socially undesirable conditions. Instead, it will correct a maladjustment that impedes the progress of our economy.

My 'creative unemployment' package is a logical step to the new management of public priorities and resources. It will satisfy the legitimate aims of the welfare state while insuring the continued technological progress of our nation. In the end, it will serve in a vital way to maintain a sound economy for Long Island and for the United States. Thank you.

SECOND-GUESSING DISTRICT OF COLUMBIA POLICE

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1971

Mr. DULSKI. Mr. Speaker, there has been considerable discussion pro and con regarding the recent demonstrations in our Nation's Capital.

My own feeling is that the Police Department of the District of Columbia is to be highly commended for the manner in which it dealt with an extremely volatile situation, thus insuring that the demonstrators were defeated in their attempt to bring our Federal Government to a halt.

In this connection, I call the attention of my colleagues to the lead editorial which appeared in the Buffalo (N.Y.) Evening News on May 12, as follows:

SECOND-GUESSING D.C. POLICE

No doubt, as critics are quick to point out, there were some police excesses during the confrontation between police and peace demonstrators in Washington last week. No doubt there was some unnecessary clubbing, some excessive use of mace or tear gas, some uncalled-for harassment, as well as some simple misunderstandings. No doubt some innocent bystanders suffered in the massive police roundups of pedestrians into detention centers.

But, after conceding all this, the fact remains that the nation witnessed a remarkable piece of police work in this massive confrontation between authority and dissent, between law and lawlessness, between order and anarchy. An attempt to "close down the government" and to harass a whole city was thwarted without the firing of a shot, without any serious injuries and without any significant interruption in the life of the city. As a whole the police and troops deserved the praise accorded them for their skill and restraint by President Nixon and by a Senate resolution.

It is easy, in retrospect, to find fault with particular aspects of the Washington police strategy. Senator Edward Kennedy (D., Mass.) protested the arrest of "masses of innocent pedestrians," and it is true that probably most of the 12,000 arrested were arrested illegally—without any charge being laid. But it is also true that it is difficult to guarantee the rights of anyone—demonstrator or bystander—when the breakdown of law and order is threatened.

Sen. Javits (R., N.Y.), who criticized the mass arrests, and such action would be "much more compatible with martial law," but martial law would surely have followed if the militant demonstrators had succeeded in seriously interfering with the government. It was somewhat ridiculous to hear Mayday leader Rennie Davis, who was attacking the entire process of government, complain that the mass arrests were unconstitutional.

The suspension of constitutional guarantees is, nevertheless, an unhappy solution, and we would rather see Atty. Gen. Mitchell explore possible alternatives than proudly proclaim, as he did this week, that the extra-legal mass-arrest technique should be a model for other law-enforcement authorities around the nation.

As for the ineffable Vice President Agnew, he typically missed (or rather twisted) the whole point of the restrained and effective Washington police performance by insultingly comparing it, in an Illinois speech, to the clobbering of demonstrators by Chicago police during the 1968 Democratic convention. Wholly ignoring the fact that some aspects of disgraceful over-reaction there were later characterized in an official inquiry as a "police riot," Mr. Agnew did not even note the contrast with how the capital police behaved.

One result of going beyond the law is that it leads to excess, and that is certainly what happened, even in Washington—at the final rally on the Capitol steps, where 1000 persons were arrested while they were peacefully listening to speeches by sympathetic congressmen.

Such excesses are symptomatic of the polarization that the corrosive issue of Vietnam has brought to this nation. Just as these militant demonstrations were a misguided switch from the impressive peaceful demonstrations two weeks before, so the reaction of authorities to the excesses of dissent carries the peril of future excesses in the name of law and order. In spite of all the best intentions in the world and in spite of the skill and restraint shown in the lastest confrontation, that peril will remain as long as the war lasts.

INTERNATIONAL MONETARY CRISIS

HON. GEORGE McGOVERN

OF SOUTH DAKOTA

IN THE SENATE OF THE UNITED STATES

Wednesday, May 19, 1971

Mr. McGOVERN. Mr. President, in view of the serious developments in Europe concerning the dollar, I have issued a statement on the international monetary crisis.

We should, I believe, take steps now to bring our international payments into balance and to push for a meaningful reform of the monetary system.

I ask unanimous consent that the text of my statement be printed in the RECORD.

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

STATEMENT BY SENATOR MCGOVERN

For the past few days we have heard disquieting news concerning international monetary affairs and, in particular, about the American dollar. The crisis which has developed poses a serious threat to the stability of the world economy and to the ability of the United States to function effectively as a member of the international community. What appears to be a complicated economic crisis is, in fact, a simple, but dangerous situation.

I make no claim to having the expertise in such matters as have several members of the Congress and a number of academic and business economists. But I submit that the situation has become so threatening that those of us in the Congress cannot any longer treat it as a passing or an unimportant matter. We all must seek to come to terms with this situation.

ANALYSIS OF THE SITUATION

What we have seen recently is people holding American dollars trying almost desperately to sell them for other currencies, notably the German mark. They are speculating against the dollar because they believe that the value of the mark in relation to the dollar will be increased. Now that prospect is a reality.

This situation has arisen because dollars have been pouring out of the United States and into Europe far faster than there is any need for them abroad. One of the main reasons for this recent dollar hemorrhage is that interest rates are higher in Europe than in the United States. Just as interest rates have dropped somewhat in the United States because some people here believe that inflation is ending and a tight money policy is no longer needed, the European interest rates have been rising to meet a rising inflation there.

European countries, as members of the International Monetary Fund, are bound to purchase dollars offered to them at a relatively fixed rate of exchange. Because of the massive inflow of dollars they have been forced to buy more than they could possibly use. They cannot turn these dollars in for gold, although under the IMF rules they should be able to do so, because in 1967 they pledged that they would not do so. If they did, they would destroy the monetary system because there simply is not enough gold available to redeem all the dollars held by European central banks.

Normally European countries could be expected to absorb the massive dollar inflow resulting from their interest rates being higher than ours. But the United States has had a chronic deficit in its balance of payments in recent years. In short, more money has flowed out each year than has come back into the United States. And European countries have already built up excessive holdings of dollars.

The American dollar cannot be devalued without congressional approval and without a radical transformation of the international monetary system. As a result, the value of other leading currencies has to be increased. What we are seeing is, in fact, a devaluation of the dollar in comparison with those currencies, a devaluation by the back door.

The present crisis is merely another in a series of crises which have taken place over the past decade. It was foreseen, and it could have been prevented.

CAUSES OF THE PRESENT SITUATION

There are two major causes of the European dollar crisis. First, our efforts to restore the economies of the European countries have been tremendously successful. Yet the international monetary system was designed at a time when it appeared that their currencies could never play an international role in trade and finance similar to the dollar. So it placed a heavy burden on the dollar as an international medium of exchange, a burden which has become intolerable and unnecessary as the European currencies have gained strength. While this took place, little was done to alter the monetary system to take account of the new situation.

Second, the United States has itself pursued policies which weaken the dollar. The persistent deficit in our balance of payments is due principally to: 1. the outflow of billions of dollars to finance the war in Indochina; 2. the outflow of billions of dollars to pay for the support of 500,000 Americans living in Europe as a result of our decision to keep a large standing army there; and, 3. our failure to push for additional trade liberalization after the conclusion of the Kennedy Round in 1967 which would have enlarged foreign markets for American goods.

The Nixon Administration has apparently deluded itself into believing that it did not have to take any action to press for international monetary reform or to end the balance of payments deficit. I am certain that it recognized that international monetary reform would be impossible so long as that deficit continued, because other countries would balk at any reform proposals which they would suspect were merely a way of counteracting the effects of the balance of payments deficit.

The self-delusion resulted from the inflow of dollars and European currencies when American interest rates were high. While this continued, the monetary crisis was kept under wraps. Now that this situation has ended, the crisis is once again with us.

WHAT MUST BE DONE

The Nixon Administration should move now to end our balance of payments deficit. That means that international monetary considerations should now be added to all of the other sound and imperative reasons for ending our military involvement in Indochina. The dollar outflow caused by the Indochina war at least equals the amount of the deficit in our balance of payments. This imbalance is further complicated by our excessive commitment of NATO forces. We should by all means reduce our armed forces in Europe to not more than one division. If the Administration persists in its refusal to take this action, it should, at the very least, insist on full European financing for the costs of maintaining our forces there. And that means we should be taking the initiative for further trade liberalization instead of searching for new trade barriers which are bound to cause other countries to erect their own obstacles to our exports.

I would note, parenthetically, that the deficit in our balance of payments is not the same thing as the deficit in the federal budget. It is pure nonsense to say that simply by reducing the budget deficit, we can preserve the role of the dollar. What matters is that part of federal spending which goes abroad not the total amount of federal spending.

If we take the necessary steps to put our house in order, we shall be able to lead the way to a thorough reform of the international monetary system. This system was devised in the early 1940's; it is no longer fully suited to the needs of the 1970's.

We could recognize, in the context of such a reform, that the role of the dollar as the international medium of exchange has diminished. The experience of the last decade, during which European countries have been increasingly unwilling to accept dollars, proves that point. And why should the United States be the world's banker? Just as there is no reason for it to be the world's policeman, it should be willing to relinquish its special financial responsibilities.

We could take the lead in an orderly transition to a system with greater flexibility in the rates of exchange among currencies. The rigidity of the present exchange rates was designed to prevent countries from undercutting each other by competitive devaluation of their currencies, i.e., trying to make their goods cheaper in international trade by the artificial method of cutting the value of the currency on their price tags. While any system must protect against such a situation, we have been so successful in meeting that danger that we have brought on far more serious problems.

We could take the lead in opening the international monetary system to the countries of Eastern Europe. These countries would be far more likely to join the international financial community if exchange rates were more flexible than they are now.

We could take the lead in urging the European Common Market to play a full and open role in the international community rather than closing itself behind tariff and currency walls. But we could only pursue such a course if we ourselves reduced our dependence on their good will in monetary affairs. As it stands now, their willingness to hold dollars in excess of their needs represents a tacit acceptance of our conduct of the Indochina war. It allows us to continue to pump out dollars for that war without any fear that they will be turned in for gold at the Treasury.

We could take the lead in seeking a new form of international liquidity as a substitute for the dollar. We cannot do that now, because other countries will oppose such a move on the grounds that it is simply designed to add to our own reserves and to take pressure off the dollar.

In short, the present crisis is not a European crisis; it is an American crisis. Administration leaders seem to treat it as somebody else's problem. Yet the dollar survives only at the suffrance of other countries. If we fail to act to end our balance of payments deficit, we shall fall deeper in their debt and hasten the day when they will take the lead in reducing the role of the dollar.

The weakness of the dollar in world money markets is not an indicator of the real strength of our economy. The United States still has the most powerful economy in the world. There is no reason why the dollar should not reflect that strength instead of demonstrating the weakness of those who guide our economic fortunes. If the necessary steps are not taken, then the control over our own economic fate is likely to fall into the hands of others. When that happens, both our domestic and foreign policies will be endangered.

MASSACRES CONDUCTED BY PAKISTAN ARMY

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 1971

Mr. WALDIE. Mr. Speaker, I would like to bring to the attention of my colleagues a petition circulated among the faculty of the History Department of the University of California, at Berkeley. The petition has been signed thus far by 17 professors.

It is hoped that a general agreement can be obtained, and some of the principles outlined below can be incorporated into the forthcoming foreign aid legislation which will define American policy toward Pakistan.

The petition follows:

A PETITION OF PROTEST REGARDING THE TREATMENT OF THE PEOPLE OF EAST PAKISTAN

We, the undersigned members of the faculty of the Department of History of the University of California, Berkeley, wish to protest strongly against the massacres which have been carried out against the people of East Bengal by the Pakistan Army since March 25, 1971. Not content with simply reasserting its authority over the region, the regime of Yahya Khan has embarked on a policy of systematically murdering all Bengali military officers, students, and intellectuals and civil servants who might have provided some leadership for Bengal in the future. They appear in particular to have singled out for destruction all the Bengali professors and heads of departments at Dacca and other East Wing universities. As academics we find this suppression of learning and inquiry especially vicious and repugnant. This policy can have as its outcome only the reduction of East Pakistan to a wasteland inhabited by a cowed and subjugated people. Horrible enough when applied to a small village or remote tribal area, such repression is unspeakably evil when directed to sustaining the rule of a distant military regime over a vast unarmed populace that only three months before had overwhelmingly voiced its desire for a measure of richly deserved regional autonomy.

We, therefore, urge the Government of the United States to join the Governments of India and the Soviet Union in publicly expressing its outrage at the course of events in East Pakistan; and to carry into effect itself the following measures:

(1) to halt at once all military aid to Pakistan, whether of ammunition, spare parts, or equipment; and to maintain this embargo until a government responsive to the will of the people of East Pakistan has been restored to that province;

(2) to suspend economic aid to Pakistan at least until such time as news reporters and scholars are permitted free entry into the major cities of East Bengal to verify for themselves the truth or falsehood of the stories put out by the Government of Pakistan about the events of March and April 1971;

(3) when economic aid is resumed, to direct the overwhelming bulk of such assistance to the relief and rehabilitation of the distressed people of East Pakistan. The channelling of emergency relief should take first priority, followed by a wide range of programs aimed at encouraging the growth of a self-reliant developing Bengali economy.

The signatures follow:

Erich Gruen, Gerald Feldman, Irvin Secheiner, David Keightley, Gerald Cavanaugh, Ira W. Lapidus, Roger Hahn, Richard Herr, Reginald Zelnick, Martin J. Sherwin, John Heilbron, L. P. Curtis, Jr., Frederic Wakeman, Randolph Starn, Thomas Bisson, John M. Smith, Thomas R. Metcalf.

All the signatories are professors and members of the U.C. Berkeley Department of History.

GOLDEN EAGLE PASSPORT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 1971

Mr. ANDERSON of California. Mr. Speaker, I am today introducing legislation to extend the immensely popular Golden Eagle Passport program until December 31, 1973.

The Golden Eagle Passport, which expires at the end of this year, has two primary purposes. First, with the purchase of a "passport" for $10, a family may be admitted to all designated federally administered outdoor recreation areas. Second, all of the proceeds derived from the annual entrance fee program are credited to the Land and Water Conservation Fund to be used to expand the Nation's outdoor recreation opportunities. Not only are these funds to help Federal agencies acquire needed recreation lands, they are also made available to assist the States in improving or expanding their outdoor recreation base. Actual revenues, by the end of 1969, totaled $19.4 million.

Mr. Speaker, if we judge the Golden Eagle Passport by the pleasure it has brought to those who love the outdoors, then the program has been a tremendous success. The senior citizen, who lives on a fixed income, finds he is able to spend more leisure hours enjoying the beauty of our great land than he could prior to the enactment of the Golden Eagle. The urban family has been encouraged by the program to leave the stresses and strain, the pollution, and the congestion of city living, and to enjoy family vacations—vacations without the telephone, the television, and the commercial tourist attractions. These families have become better acquainted with each other, and have learned that there is more to life than "keeping up with the Joneses."

However, if we judge the Golden Eagle by the profits it has brought the Govern-

ment, then some will say that it has been a dismal failure. While I feel that $19.4 million is a tremendous sum, I feel that by placing a price tag on our heritage, our forests, our lakes, and waterways, we are placing an added burden on those who own our recreation areas—the taxpaying public who finaced their acquisition. Thus, Mr. Speaker, I feel that any sum that must be paid for the passport must be minimal.

I wholeheartedly support the Golden Eagle Passport and I want to emphasize to those who condemn this program as a financial failure that our 3,000 national parks, forests, and refuges belong to the people and that the right of easy access to these areas must be preserved.

WAR ATROCITIES COMMITTED BY THE ENEMY

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Wednesday, May 19, 1971

Mr. THURMOND. Mr. President, on April 23, 1971, the director of national security and foreign affairs of the Veterans of Foreign Wars of the United States submitted a report concerning war atrocities to the leadership of that organization. This report was submitted to leaders of the 1,600,000 member veterans organization from throughout the Nation.

There can be no doubt that the members of this organization are truly concerned about the national security and foreign affairs of the United States. Each individual in this great organization has defended his Nation. The main purpose of this report was to inform the members of the atrocities being committed by the enemy in Indochina; not to eclipse the mistakes of the United States during our involvement in this area of the world.

I am particularly impressed with the judicial approach in which the report is presented, and think it should be required reading for all concerned citizens.

Mr. President, the Veterans of Foreign Wars of the United States has traditionally made great efforts to inform its membership of all aspects of issues important to our national welfare. This report is one more example of a very thorough approach so consistent with the concerns of this great organization, and I commend my colleagues' attention to it.

Mr. President, I ask unanimous consent that this report prepared by Mr. Anthony M. McDonald, Jr., on "War Atrocities" which are being committed by the enemy be printed in the Extensions of Remarks.

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

WAR ATROCITIES

(By Anthony M. McDonald, Jr.)

Approximately 60 miles northwest of Saigon there is a mountain which awesomely rises against the horizon called Nui Ba Den—Black Lady Mountain. It is surrounded by forests and green rolling fields of rice, and at sunset gives the appearance of a Shangri-la. Somewhere in the thick forest area north of this mountain near the Cambodian border exists the complex system of bunkers and tunnels known as headquarters for the C.O.S.V.N.—The Central Office for South Vietnam. This is the nerve center of the Communist party's effort in South Vietnam. Of late, it is suspected that this headquarters has been controlling the whole Communist effort in Indochina. From this incredibly complex maze of bunkers and tunnels, guerrilla warfare efforts, dictated from Hanoi, become a reality. The only thing that is known about this area and the logic of the efforts emanating from this headquarters is that there is a consistent unknown. The unknown has become an essential tragedy in the life of the people subjected to the terror orders which pass through this headquarters.

One of the most blatant tragedies of a guerrilla warfare, such as that being waged in Indochina—a war without front lines, without clearly defined battlefields, and without even a clearly defined enemy—is the fact that many innocent people both in the urban and rural areas become combatants. There are no non-combatants in this strange anomaly called guerrilla warfare. There are no safe villages, there are no safe cities and there are no people who can ever feel 100% safe, in a country ravaged by guerrilla warfare. This situation results in civilan casualties that occur at an incredible rate. In Southeast Asia, a very high percentage of civilian casualties have been victims of allied efforts and of Communist terror tactics. History dictates that an accepted price man must pay, if he is to lower himself to the extent that he settles global disagreements with war, is the horror of civilian casualties.

The history of war is imbued with a record of unavoidable and regrettable civilian casualties. The basic difference involved in the present Indochina Conflict, and other wars that the United States has been involved in, is that Communist terror tactics involving individuals is an essential part of their political program. Basic Maoism dictates that terror assaults on individuals should necessarily be initiated on the village and hamlet levels and work toward assassination attempts on national figures when the system of terror is being fully exercised. In Vietnam, because of the nature of the people, there were initial problems among the rank and file inherent in their abhorrence to systematic terror and assassination. The solution offered by Hanoi was to confuse politics and terror and in turn make them one. Their rationale for the resulting terror politics was that the enemy permitted them no alternative and that this was only a temporary means to a glorious end. In this Maoist approach to terrorism there are three basic objectives:

Diminish the opposing force;

Sustain Communist morale;

Disorient and psychologically isolate the individual.

The effects of this program of systematic terror and assassination have been described by one American psychiatrist as resulting in a case of collective anxiety neurosis. It is beyond belief that anybody can think that the Vietnamese people would prefer a system of Communist terror to a system of national security as represented by a strong national government of their choosing. Desertion of Vietnam by the allies would not, and could not, halt civilian casualties as has been espoused by many not understanding the rationale of guerrilla warfare or worldwide Communism. Guerrilla warfare as stated by Mao Tse Tung depends on the combatants bringing the war to the sea (the people) and thus existing from the sea. There are basic differences from the Maoist Doctrine and the situation in Vietnam:

Never before in history has a warring nation and its friends (the Republic of Vietnam and 43 other Free World nations which have volunteered non-military assistance) given such high priority to the treatment of civilian patients.

Never in any prior war have the combatants on one side (the South Vietnamese and the fighting forces of six allied nations) gone to such lengths to avoid civilian casualties, often increasing the risk to their own troops by not ordering counter-battery fire and not taking other security measures that might endanger civilian lives. One of the first acts of the new American forces commander, General Creighton W. Abrams, was reiteration of an order to his troops to employ tactics that would keep civilian casualties to a minimum. And henceforth no air strikes in the Saigon area can be carried out by any U.S. forces without the personal permission of General Abrams.

Never in any prior war have the combatants on the other side (the Viet Cong and the North Vietnamese Army) gone to such length to increase the toll of civilian dead and wounded. Many of South Vietnam's civilian war injuries are not accidental. As Dr. Blasingame's team documented in its report to President Johnson, many such casualties are deliberately caused by the Communists as part of their calculated terror campaign.

Terror has always been a Communist tool, but the unrestrained acceleration of terror attacks against the people is a fairly recent manifestation. Since the Viet Cong evolved in the 1950's as insurgents seeking to topple the Saigon government, their strategy has been to pose as agents of the people, working for the people; as such they have been very successful in bringing terror and increased casualties to the people under a guise of camaraderie.

As has been mentioned, the very nature of a guerrilla warfare increases the probability of civilian casualties. It is true that there have been atrocities committed by both sides during the Indochina Conflict but in the words of former President Lyndon B. Johnson, on March 15, 1967, "Look for a moment at the record of the other side. Any civilian casualties that result from our operations are inadvertent, in stark contrast to the calculated Viet Cong policy of systematic terror. Tens of thousands of innocent Vietnamese civilians have been killed, tortured, and kidnaped by the Viet Cong. There is no doubt about the deliberate nature of the Viet Cong program. One need only note the frequency with which Viet Cong victims are village leaders, teachers, health workers, and others who are trying to carry out constructive programs for their people. Yet the deeds of the Viet Cong go largely unnoted in the public debate."

Recently Representative Fletcher Thompson has been tasked by the House Armed Services Committee to investigate atrocities and massacres committed by the Viet Cong and North Vietnamese troops throughout Indochina. I am in full agreement with him; the American public has not been made aware of the brutality of the *enemy* against the civilian population of South Vietnam. Following is a brief chronological listing of some Communist atrocities that have occurred in Vietnam and a more detailed description of three instances which this writer feels should be brought to the attention of the American public to somewhat balance the criticism that some people of the United States deem necessary to inflict upon us.

August 23, 1960—Two school teachers, Nguyen Khoa Ngon and Miss Nguyen Thi Thiet, are preparing lessons at home when Communists arrive and force them at gun point to go to their school, Rau Ran, in Phong Dinh province. There they find two men tied to the school veranda. The Communists read the death order of the two men, named Canh and Van. They are executed, presumably to intimidate the school teachers.

September 28, 1960—Father Hoang Ngoc Minh, beloved priest of Kontum parish, is riding from Tan Canh to Kondela. A Communist road block halts his car. A bullet smashes into him. The guerrillas drive bamboo spears into Father Minh's body, then one fires a submachine gun point blank, killing him. The driver, Huynh Huu, his nephew, is seriously wounded.

March 22, 1961—A truck carrying 20 girls is dynamited on the Saigon-Vung Tau road. The girls are returning from Saigon where they have taken part in a Trung Sisters Day celebration. After the explosion terrorists open fire on survivors. Two of the girls are killed and ten wounded. The girls are unarmed and traveling without escort.

September 20, 1961—One thousand main force Communist soldiers storm Phuoc Vinh, capital of (then) Phuoc Thanh province, sack and burn government buildings, behead virtually the entire administrative staff. They hold the capital for 24 hours before withdrawing.

October, 1961—A U.S. State Department study estimates that the Communists are killing Vietnamese at a rate of 1,500 per month.

February 20, 1962—Terrorists throw four hand grenades into a crowded village theater near Can Tho, killing 24 women and children. In all, 108 persons are killed or injured.

April 8, 1962—Communists execute two wounded American prisoners of war near the village of An Chau in Central Vietnam. Each, hands tied, is shot in the face because he cannot keep up with the retreating captors.

October 20, 1962—A teen-age Communist hurls a grenade into a holiday crowd in downtown Saigon, killing six persons, including two children, and injuring 38 persons.

March 4, 1963—Two Protestant missionaries—Elwood Forreston, an American, and Gaspart Makil, a Filipino—are shot dead at a road block between Saigon and Dalat. The Makil twin babies are shot and wounded.

September 12, 1963—Miss Vo Thi Lo, 26, a schoolteacher in An Phuoc, Kien Hoa province, is found near the village with her throat cut. She had been kidnaped three days earlier.

October 16, 1963—Terrorists explode mines under two civilian buses in Kien Hoa and Quang Tin provinces, killing 18 Vietnamese and wounding 23.

November 9, 1963—Three grenades are thrown in Saigon, injuring a total of 16 persons, including four children, the first is thrown in a main street, the second along the waterfront, and third in the Chinese residential area.

July 14, 1964—Pham Thao, chairman of the Catholic Action Committee in Quang Ngai, is executed when he returns to his native village of Pho Loi, Quang Ngai province.

October 1964—U.S. officials in Saigon report that from January to October of 1964 the Communists killed 429 Vietnamese local officials and kidnaped 482 others.

February 6, 1965—Radio Liberation announces that the Communists have shot two American prisoners of war as reprisals against the Vietnamese government which had sentenced two terrorists to death.

June 25, 1965—Terrorists dynamite the My Canh restaurant in Saigon, killing 27 Vietnamese, 12 Americans, two Filipinos, one Frenchman, one German; more than 80 persons are injured.

June, 1965—Vietnamese officials report the rate of assassinations and kidnapings of rural officials has doubled in June over May and April; 224 officials were either killed or kidnaped.

December 12, 1965—Two terrorist platoons kill 23 Vietnamese canal construction workers asleep in a Buddhist Pagoda in Tan Huong, Dinh Tuong province; wound seven others.

December 30, 1965—Saigon editor Tu Chung of the newspaper Chinh Luan is gunned down in point blank fire as he arrives home at noon for lunch. Earlier he had published the texts of threatening notes he had received from the Communists.

January 18, 1966—Communists mine a bus in Kien Tuong province, killing 26 civilians.

January 29, 1966—Terrorists kill a Catholic priest, Father Phan Khac Dau, 74, at Thanh Tri, Kien Tuong province. Five other civilians, including a church officer, are also killed. The marauders desecrate the church, destroying its statutary and religious artifacts.

February 14, 1966—Two mines explode beneath a bus and a three-wheeled taxi on a road near Tuy Hoa, killing 48 farm laborers and injuring seven others.

May 22, 1966—Terrorists kill 18 sleeping men, a woman and four children during an attack on a housing center for canal workers in the Mekong Delta province of An Giang. "We are doing this to teach you a lesson," a Communist cadre is reported to have said just before he pulled the trigger.

September 11, 1966—On election day, Communists kill 19 voters, wound 120, in fire on polling places, mining of roads and in individual assassinations.

September 24, 1966—American troops free eleven persons from a Communist "jail" in Phu Yen province who report that 70 fellow prisoners were deliberately starved to death and 20 others tortured until they died.

November 8, 1966—In Chau Doc province, a 53 year old woman is tortured and shot to death; a note pinned to her body accuses her of supporting the South Vietnamese government.

November 19, 1966—Eight mortar rounds on Can Giuoc, Long An province, kill two children; 12 civilians are wounded, some 20 mortar rounds drop on Can Duoc, wounding five civilians.

November 26, 1966—A Claymore-type mine is set off in the playground of the Trinh Hoai Duc boys' school, An Thanh, Binh Duong province. Korean troops are using adjacent area as a training site. Three Koreans are killed and a Vietnamese student is wounded.

December 10, 1966—A terrorist throws a grenade into the Chieu Hoi district playground, Binh Duong City, severely injuring three children.

December 10, 1966—A taxi on Highway 29, Phong Dinh province runs over a mine. Five passengers, all women, are killed and the driver badly wounded.

March 4, 1967—Only two badly wounded prisoners survive as Communist prison guards near Can Tho tie 12 South Vietnamese captives together, shoot and stab them before fleeing from advancing South Vietnamese troops; both survivors live despite having their throats cut.

March 30, 1967—Recoilless rifle fire directed at homes of families of South Vietnamese troops demolishes 200 houses and kills 32 men, women and children in the capital city of Bac Lieu province.

April 16, 1967—A squad enters Cam Ha, Quang Nam province and murders an election candidate. One child is killed and three civilians are wounded.

April 18, 1967—Sui Chon hamlet northeast of Saigon is attacked by assassins and arsonists who slay five Revolutionary Development team members, wound three, abduct seven; three of those slain are young girls, whose hands are tied behind their backs before they are shot in the head. One-third of the hamlet's dwelling is destroyed by fire.

May 24, 1967—The information officer of Phu Thanh, Bien Hoa province, and his two children are killed by grenades thrown into their home at 3 a.m.

June 27, 1967—Twenty-three civilians are killed when their bus strikes a mine in Binh Duong province, southeast of Lai Khe.

August 27, 1967—A week before presidential and senate elections, terrorists step up their activities. A recoilless rifle and mortar attack on Can Tho kills 46 and injures 227. Ten die and ten are injured in an attack on a Revolutionary Development team in Phuoc Long province. Fourteen civilians, including five children, are wounded by mortar fire southeast of Ban Me Thuot, Darlac province. Two civilians die and one is wounded in an attack on a hamlet in Binh Long province. Six civilians are kidnaped from Phuoc Hung village in Thua Thien province.

December 14, 1967—Saigon reports a total of 232 civilians killed by acts of terrorism in one week.

May 5–June 22, 1968—Some 417 rockets are fired indiscriminately into Saigon, chiefly in the densely-populated Fourth District. The rockets are 107mm Chinese-made and 122mm Soviet-made. Result: 115 dead, 528 hospitalized.

May 29, 1968—A band of Communists stops all traffic on Route 155 in Vinh Binh province; 50 civilians are kidnaped, including a Protestant minister; 2 buses and 28 three-wheeled taxis are burned.

September 1, 1968—Doctors at the American Division's 27th Surgical Hospital report two Montagnard women have been brought in for treatment for advanced anemia. It is determined that the North Vietnamese had been systematically draining them of blood for treating their own wounded.

September 12, 1968—A Communist report (captured in Binh Duong province) from the Chau Thanh district Security Section to the provincial Party Central Committee says that seven prisoners in the district's custody were shot prior to an expected enemy sweep operation: "we killed them to make possible our safe escape," the report says.

February 16, 1969—Communists invade and occupy Phuoc My village, Quang Tin province, for several days. Later survivors describe a series of brutal acts: a 78-year old man shot for refusing to cut down a tree for a fortification; a 73-year-old man killed when he could not or would not leave his home, pleading that infirmities prevented him from walking; an 11-year old boy stabbed; several families grenaded in their homes.

February 24, 1969—Terrorists enter the Catholic Church in Quang Ngai province, assassinate the priest and an altar boy.

March 4, 1969—Rector of Saigon University, Professor Tran Anh, is shot by motorcycle-riding terrorists; previously he had been notified that he was on the "death list" of something called the "Suicide Regiment of the Saigon Youth Guard."

April 9, 1969—Terrorists attack the Phu Binh refugee center, Quang Ngai province, and fire 70 houses, leaving 200 homeless. Four persons are kidnapped.

April 15, 1969—An armed propaganda team invades An Ky refugee center, Quang Ngai province, and attempts to force out the people living there; nine are killed and ten others wounded.

June 18, 1969—Three children are wounded when they step on a Communist mine while playing near their home in Quan Long (Ca Mau) city, An Xuyen province.

June 19, 1969—In Phy My, Thua Thien province, Communists assassinate a 54-year old man and his 70-year old mother.

August 13, 1969—Officials in Saigon report a total of 17 Communist terror attacks on refugee centers in Quang Nam and Thua Thien provinces, leaving 23 persons dead, 75 injured and a large number of homes destroyed or damaged.

August 26, 1969—A nine-month-old baby in his mother's arms is shot in the head by terrorists outside Hoa Phat, Quang Nam province; also found dead are three children between ages six and ten, an elderly man, a middle-aged man and a middle-aged woman, a total of seven, all shot at once in the back of the head.

On September 24, 1969—A bus hits a mine on Highway 1, north of Duc Tho, Quang Ngai province; 12 passengers are killed.

October 27, 1969—Communists booby trap the body of a People's Self-Defense Force member whom they have killed. When relatives come to retrieve the body the subsequent explosion kills four of them.

January, 1970—National police reports received in Saigon today recounted 11 incidents of Viet Cong terrorism in which 11 civilians were killed, 21 wounded and one kidnapped.

January 8, 1970—Three buffalo boys were wounded by a Viet Cong mine in Thuy Phu village in the Huong Thuy District of Thua Thien province.

June, 1970—According to the note at 2 a.m. on June 11 the North Vietnamese sabotage battalion T.69 after being defeated on the battlefield near Ba Ren Bridge in Hoi An launched an armed assault against Thanh My Hamlet, Phu Thanh village, Que Son district, Quang Nam province, killed 74 civilians, wounded 63 others and burnt down 316 dwellings.

Among the slain victims, 7 families taking shelter in the bunkers were all killed by the Communist attackers who tossed handgrenades at them.

In their blind frenzy to carry out the orders of the Hanoi authorities, the North Vietnamese infiltrated troops have not renounced their most inhuman acts and massacred in cold blood a lot of women and children in the above atrocious slaughter in Thanh My hamlet.

August, 1970—Viet Cong guerrillas led Communist troops to a post-midnight attack August 30 on a Buddhist orphanage at South Vietnam's An Hoa Hamlet. In just 30 minutes' time, the Communists killed 14 civilians—including six orphaned children—and wounded 45 other persons.

1971 is a year where the Communists have expressed a desire to achieve at least twice the norms previously set for destruction and terrorism. What the future holds for the people of Vietnam terrorizes one's imagination. As was previously mentioned, there are three instances in the recent history of Vietnam which this writer considers to be of such importance as to deserve more detailed description.

Dak Son, December 5, 1967—A name that should be remembered as long as Lidice is Dak Son, a Montagnard village of some 2,000 in Phnoc Long province. Some 300 Communists staged a reprisal raid on Dak Son. The chief weapon: the flame thrower, 60 of them. The purpose: purely to terrorize. The result: a Carthaginian solution, all but sowing of the salt. After breaking through the flimsly hamlet defense, the Communists set about systematically to destroy the village and the people in it. Families are incinerated alive in their grassroofed huts or in the shelters dug beneath their beds. Everything combustible is put to the torch: houses, recently harvested grain on the ground, livestock, fences, trees, people. One of the first Americans to approach the scene the following day: "As we approached the place I thought I saw charred cordwood piled up the way you pile up logs neatly beside the road. When we got closer I could see it was burned bodies of several dozen babies. The odor of burned flesh, which really is an unforgettable smell, reached us outside the village and of course got stronger at the center. People were trying to breathe through cabbage leaves. . . . I saw a small boy and a smaller girl, probably his sister, sort of melted together in a charred embrace. I saw a mother burned black still hiding two children, also burned black. Everything was burned and black. The worst was the wail of the survivors who were picking through the smouldering ruins. One man kept screaming and screaming at the top of his lungs. For an hour he kept it up. He wasn't hurt that I could tell.

He just kept screaming until a doctor gave him a shot of morphine or something. . . . Fire bloats bodies I learned, and after a few hours the skin splits and peels and curls. . . . The far end of the village wasn't burned; the Communists ran out of flamethrower fuel before they got to it. . . ." Estimated toll: 252 dead, about two-thirds of them women and children; 200 abducted, never to return.

Hue, February, 1968—A Communist force of 12,000 invaded the city of Hue on the night of the new moon, commonly called "Lunar Tet Festival," marking the new lunar year June 30, 1968. The city was overrun, and under Communist control, for 26 days. It was finally rescued through the combined military action of United States and South Vietnamese forces. This writer was at Hue during and after the agonizing events which occurred at that time. The killing and torture that has been described as the Hue Massacre exceeded any other atrocities, in numbers and by nature, that have occurred in the Indochina Conflict. During the months following the Hue Massacre, it was determined that 5,800 civilians were dead or missing in the city of Hue and in the surrounding areas, and that 1,900 civilians were hospitalized with war wounds. The discovery of approximately 1,200 bodies immediately after the routing of Communist forces indicated definite evidence of atrocity killings. The majority of those found were concealed in shallow, poorly dug graves. Many were buried alive with rags stuffed in their mouths and the remainder were found with their hands wired behind their backs and shot wounds and marks of torture covering their bodies. All the victims of the Hue Massacre were not Vietnamese civilians; among the victims were three West German doctors, a medical technician who was the wife of one of the doctors, and two French Catholic priests, one of whom was buried alive. During the months that followed these immediate discoveries, numerous other mass graves were discovered; some having as many as 800 bodies. At Da Mai Creek the remains of 428 people were discovered. The dead had been left rotting in the Creek for 20 months, all that was discovered were skeletons and pieces of human bones. (Many people in South Vietnam are animists and for them such a death meant that their souls would wander the earth in agony forever.)

What happened in Hue apparently made very little impact upon those who cry outrage in reaction to war atrocities. In the words of Douglas Pike, a noted authority on Vietnam: "There was no agonized outcry. No demonstrations at North Vietnamese Embassies around the world. Lord Russell did not send his 'war crimes tribunal' to Hue to take evidence and indict. In a tone beyond bitterness, the people there will tell you that the world does not know what happened in Hue or if it does, does not care. It is incredible to believe that the world could turn a deaf ear to the casualties that occurred during the battle of Hue."

The city of Hue is once again functioning but there are no persons advocating submission in this city. There can be no uninvolvement in a city where every person was personally touched by the bloody atrocities of the Hue Massacre.

Duc Duc, March 31, 1971—The village of Duc Duc is located near the Thu Bon River and in the vicinity of An Hoa. It is not a fortified village, but it is the site of the district capital which is heavily fortified. There is not much left to the village of Duc Duc because on March 31, two battalions of North Vietnamese regulars moved down the Ho Chi Minh Trail, and turned eastward in a three-day forced march until reaching their final destination. Upon arriving at Duc Duc they were joined by more than a batallion of Viet Cong; together they wrecked havoc on what was once a peaceful and independent village. The results of their efforts were more than 200 civilians dead or wounded and approximately 1,450 homes destroyed. The attack on this village lasted for approximately 12 hours. It started with a mortar barrage and was followed by a ground assault on defenseless villagers, including women and children. Sappers (name given to NVA and VC commandos) rushed through the village wantonly throwing hand grenades and burning down huts. Those women and children hiding in underground bunkers were burned alive. The first American upon the scene said that it gave the appearance of being a giant ash tray.

The burned and charred remains of what were once defenseless women and children are now all that remains as a tribute to Communist efforts to "placate" this village.

As has been mentioned, the listing of these atrocities can in no way whitewash the fact that there have been atrocities committed by both sides during this conflict, but if you will allow me to editorialize I hope that the pertinence of the aforementioned events, to our present day domestic crisis will become more evident.

There have obviously been some procedures practiced in both our domestic and foreign policies during the past decade which the pleasures of hindsight and fireside reflection allow us to evaluate as having better been left undone, but it is my opinion that an imperical evaluation of the whole situation would allow for limited optimism. Our democratic way of life thrives on criticism and as such the onslaught of criticism that we find so evident today is not a new occurrence in our history. Our tradition and our heritage of self-criticism are only made more impervious to vilification by the way our society and our government is standing up under the ordeals of today. Serious and constructive criticism of our performance during the last decade, and our decisions of today, are an absolute necessity if we are to have strong building blocks for our tomorrows. The strength of our democracy is based on the severity of our internal criticism; a self-imposed perpetration of this criticism will remain evaluated by all as an incredible achievement. Throughout history unabated and unintelligent criticism, utilized for self-glorification or political ambition, has been contagious; that has once again become evident. Presently, the cries of indignation over U.S. war atrocities have brought this criticsm to a crescendo.

The people of the United States are found suffering from an overkill of information, an overkill of criticism, and an abundance of interpretations of world and domestic situations, but not nearly enough opportunity for adequate reflection and evaluation. They need an outlet to relieve the pressure of frustration, and I fear that the accuasations being leveled at our country, and our President, are allowing them the refuge they so readily seek. It becomes apparent that by criticizing our country and our President, who are never impervious to criticism, we are saying that everybody is guilty and so nobody is guilty. This is not the answer that we seek; simple answers provide only immediate solace.

The progress of events which has evolved from the first exposure of the My Lai incident has been an evaluation of Lt. Calley, the U.S. Army, our code of behavior during war, and now the spotlight is turned on the United States as a nation. We have proven to be our own harshest critics. There are those who pursue criticism not in the arduous manner of exploration, detection, and explanation but in a very righteous and somewhat comfortable manner of total condemnation. We cannot allow this to happen, for by pursuit of this method we destroy not only the bad in our system, but also the good which has taken so long to build.

We are horrified by suddenly coming face to face with the stark fact that Americans, when evaluated as individuals, are like men from all over the world. When men become involved in war there are always going to be

diversions from the "acceptable" interpretation of human nature. Winston Churchill said in London on April 27, 1941 that "there is only one thing certain about war, that it's full of disappointments and also full of mistakes."

The revelation of the My Lai situation has caused many to cry that wickedness, atrocities and enormous devastation of our national morals are seemingly triumphant, and that they have cast a permanent shadow over the heritage, and even the destiny, of the United States. These same fatalists cry that we have suddenly found ourselves devoid of national laws, morals, traditions, and customs for which we can take pride. They further cry that the stature of the United States, the position, the dignity and the nobility that were once ours have succumbed to a system of bureaucratic barbarism and predetermined terror. We stand forlorn and accused of perpetrating terror tactics and atrocities as the foreign policy of our nation.

We must guard against undue criticism, but we must also stand firm against a tendency toward undue optimism. An incredible story is unfolding before the eyes of the world. The plot and the ending are yet unknown; we are still active characters in a drama of global politics and devastating war. We will one day be called upon and judged by history as the story and its ending unfold. We may rejoice, we may weep, but we cannot escape the responsibilities for our decisions . . . decisions that were made yesterday and decisions that are being made this very moment.

Many dissenters criticize the President for his policies in Southeast Asia, some criticize his rapport with the people of this country, some claim that there is a "credibility gap" in his dialogue with the people, and there are those who criticize because they are truly indignant of what they have witnessed and interpret as a deterioration of the American way of life. These sincere critics are an essential aspect of our democracy. There are those political opportunists who criticize the President because he is President of the United States. In a strange way, native only to our political system, these too are a necessity. I ask only that these latter mentioned critics abandon their selectivity when expressing indignation concerning the obscenities of war.

It must be remembered that all wars are obscene, and all sides waging a war commit obscenities to differing degrees. I ask not that we obscure the obscenities committed by United States forces, but only that we not spotlight them in order to eclipse the obscenities committed by our enemies. In addition, one wonders if there are no obscenities committed in the wars of the Middle East so often supported by those expressing indignation over the wars in Indochina.

In summation, I ask who will accept responsibility for the bloodiest war atrocity to be committed in the Vietnam conflict? Who will accept responsibility for the results if we withdraw from Indochina without an acceptable solution to the POW issue and prior to assurance that the people of South Vietnam (who are encouraged not to submit, but to wage war) are capable of self-protection.

Those previously mentioned atrocities can be evaluated rather impersonally, but an immediate withdrawal based on emotionalism and national panic would leave a stain on our national conscience which could be devastating. If we were to withdraw immediately the Communists of that area would create a silence, but this silence would cloak a harsh and vengeful elimination of all opposition to the new order. The world press would not be permitted to report the bloody and devastating revenge that would obviously befall those "tyrants and lackeys" who had the audacity to oppose Hanoi. Would this silence then be labeled "peace" by those who advocate immediate withdrawal?

ODD FELLOWS PILGRIMAGE TO TOMB OF THE UNKNOWN SOLDIER

HON. HUGH SCOTT

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Wednesday, May 19, 1971

Mr. SCOTT. Mr. President, several weeks ago the Independent Order of Odd Fellows made its annual pilgrimage to the Tomb of the Unknown Soldier in Arlington National Cemetery. At that time, Sovereign Grand Master Samuel J. Patterson, of Philadelphia, spoke of peace and freedom to the assembled gathering.

Because I believe his remarks will be of interest to Senators, I ask unanimous consent to have Mr. Patterson's message printed at this point in the RECORD.

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

PEACE AND FREEDOM

(By Samuel J. Patterson)

"How sleep the brave, who sink to rest,
By all their country's wishes blest."

Brother Chairman, officers, both past and present, of the Sovereign Grand Lodge and all affiliated bodies, my Sisters, Brothers, and friends.

We come again, in our annual Pilgrimage to this beautiful cemetery, and to the Tomb of the Unknown Soldier. We come in memory, we come in tribute, we come in respect, and we come in gratitude. A world wide, international fraternity, giving heartfelt thanks for that which the unknown soldiers and their comrades who surround them have purchased, recognizing and fully understanding the price they have paid. That full measure of devotion, not of will but of duty; for freedom and for hope, that man may enjoy his God-given right to life and happiness, patterned after his own desires, in his own environment, conforming to the laws of God and respect for his fellow man.

For one hundred and fifty-two years, on this continent, the Independent Order of Odd Fellows have stood by that banner; for one hundred and fifty-two years the Odd Fellows have labored in freedom's cause and today are dedicated to that cause until time shall be no more.

Today we honor all of those who have worn the military uniform in defense of our right to live the way we have chosen as free people of a free land. Today we honor and give grateful thanks to those, who at this moment are clothed in the military uniform of our country and are standing duty at the ramparts of freedom throughout the world.

My Sisters and Brothers, as we stand here today, on this hallowed soil, in sight of the Canadian Memorial, in honor and memory of those soldiers of both nations, who gave in the hope that we might live in peace; we pause before this shrine, knowing deep in our hearts, that the people of both of our countries are weary and sick of war as an instrument for settling international disputes and political disagreements.

We find it difficult to understand why nations who can lead in fashioning the most awesome weapons of destruction, cannot lead in building a lasting peace structure. We find it hard to understand why the leaders of all nations cannot give priority to mankind's first dream and fondest hope, a world of total and permanent peace.

On November 11, 1918, World War One came to a close by an armistice. This was an armistice that brought hope to the world for lasting peace. This brought to an end the war that would end all wars. Agreed by the leaders of all nations that the world would be safe for democracy and peace forever thereafter.

For many years November eleventh was celebrated and recognized in the United States as Armistice Day. It has fittingly been changed to Veterans Day.

The Armistice signed by the allied forces of freedom and their enemies in 1918 turned out to be just what the name implies. A truce. It failed to pave the way to tranquility among the nations of the world. Since that time we have heard far more of the bomb than of the olive branch. We have seen far more of the hawk than of the dove. Why not an International Peace Research Foundation?

Today, because of ideological differences, they are mighty forces that seek to destroy America as a national power. They care nothing for the kind of freedom we treasure. They do not appreciate it, because they have nothing like it and do not understand it. They look upon our country simply as a stumbling block in their way of dominating the world. Unfortunately many Americans are duped by their spurious propaganda. Only love and friendship can remedy this unfortunate problem.

America today is deeply and dangerously divided on the commitment of our youth to war. Our young people themselves are in open rebellion against their future, their destiny, and their very lives being held in the balance of war. Opportunity must come to them to plan and dream in an atmosphere of peace. This message is echoed thousands and thousands upon thousands of times throughout Arlington Cemetery today. Only peace and morality can unite America and in unity and morality, America will find her strength and true greatness.

Truly, the worth and dignity of man created in the image of God, recognizing with profound concern the rights and welfare of others, constitutes this nation's most treasured heritage. It must be our most powerful arsenal as we face the responsibilities and obligations we owe to those great and silent legions whom we honor today.

No nation should seek to dominate the world. Every nation should try to provide their people with the best within the limits of their resources and those with shortages should be assisted by those with surpluses. Kindness and consideration, love and understanding is the only road to peace. Truth and justice must point the way.

Today we come to pay respect to those who have given that last full measure. Today we eulogize patriotism. We laud it as a God-given sentiment, signifying love of country, reverence for her institutions, observance of her laws, guarding her integrity, and devotion to her welfare and progress. We come today, in the name of Odd Fellowship to proclaim to the world that character shall determine our destiny. We proclaim that petty partisanship on politics must go. We cannot afford to be guided by the shifting vane of political opportunity.

As we look upon these beautiful acres, the sacred garden of devotion, may we be strongly resolved that those who now sleep in the dreamless silence of heroic dust shall not have died in vain, that those who live after them should not have to pay over and over and over again, the price they have paid for human freedom.

Let us, my Sisters and Brothers, further resolve that we the Odd Fellows of the world will lend tirelessly of our efforts to that day when the fetters and shackles of moral bondage shall be cast aside, and nations and all kindreds of the earth will be bound in the spirit of brotherhood, and peace will be found for all mankind throughout the world.

ENVIRONMENTAL STUDIES PROGRAM

HON. OGDEN R. REID

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 1971

Mr. REID of New York. Mr. Speaker, last Friday, May 14, I had the opportunity of spending the morning aboard the Hudson River sloop, *Clearwater*, with a group of sixth grade students from the New Rochelle, N.Y., public schools, as the boat sailed the Hudson River and Long Island Sound in an innovative environmental studies program.

Built 2 years ago as a replica of sloops which sailed the Hudson in her cleaner days, the *Clearwater* was the idea of Pete Seeger, the folksinger, and a group of history buffs who formed the Hudson River Sloop Restoration, Inc. Along with Mrs. Helene "Cooke" Duffy, now the chairman of the board, the group raised the necessary funds to build the boat, to maintain it, and to partially finance its activities. Mr. Harry Dobson is the current president of Hudson River Sloop Restoration, Inc. In my view, this is a pioneering and most worthwhile endeavor and I hope that the *Clearwater* will be the recipient of substantial private and government support.

Eight of the crewmembers on the sloop are volunteers from all over the country who serve a week or two on the craft. Alan Aunapu is the permanent captain and serving with him are a number of regular crew and staff members: Reid Haslam, first mate; Charles Rose, second mate; Donald Taub, steward; Lynne Beers, operations director; William Taggart, development director, and Barbara Harry, secretary.

The *Clearwater* has been docked in New Rochelle for the past month, permitting all sixth graders in the public schools to cruise the nearby waters. Beyond sampling the unfortunately polluted waters of the sound and receiving on-the-spot instruction in marine biology and ecology, this highly successful program permits the students to be introduced to their environs from a new perspective.

This special "Classroom-on-the-Sound" curriculum was created by the Hudson River Sloop Restoration, Inc., working with New Rochelle superintendent of schools, Dr. Robert P. Spillane; Mr. Richard T. Olcott, administrative assistant to the superintendent; and Mrs. Milton Kurtz, chairman of the environmental committee of the New Rochelle PTA Council.

In my view, a first-rate environmental education program has been developed by this team and I hope that it will be possible for children and adults in many other regions of the country to benefit from this experience.

I would like to insert in the RECORD at this point two articles from the New York Daily News and one article by Dr. Spillane from the New Rochelle Standard Star about this program and its accomplishments:

[From the New Rochelle (N.Y.) Standard-Star, May 17, 1971]

CLEARWATER'S VISIT HERE AN "EVEN KEEL" EXPERIMENT

(By Dr. Robert R. Spillane)

With the currents of uncertainty that surround all talk next year's school budget and the winds of dispute that rage above any mention of economy or redesign, it is a pleasant task to review a school program proceeding on even keel and free of any leaks or litigation.

One such is the project that is presently underway involving the Hudson River Sloop Clearwater and the City School District of New Rochelle. Through the project, all of the sixth grades in the public schools have been scheduled to go aboard this massive replica of a 19th Century cargo vessel and sail, two classes at a time, around New Rochelle Harbor and the waters of nearby Long Island Sound. While on these cruises, the sixth graders get a taste of crewing aboard a magnificent wooden sloop of a kind no longer in service; are introduced to the environs of their home community from an angle unfamiliar to the majority of them; and are given basic instruction in navigation, marine biology, ecology, social studies, literature, and a host of other subjects in an instructional environment that is as different as it is exciting and which seems, if early indicators do not mislead, to sustain learning enthusiasm after their return to regular classrooms.

But the program almost had to succeed. It had so very much going for it right from the onset.

First of all, the Clearwater is a marvelous idea all by itself. I can think of no single instrument that could attract so much attention to our declining natural resources and make so dramatic a statement, in regal and graceful bulk, of the beauty of a former, less ecologically corrupted time.

Add children to the picture—children of the generation that will make or break us environmentally—and you have the perfect learning combination. Almost 1,000 elementary school children will sail aboard Clearwater during her month-long stay in New Rochelle. The experience of the sail, and the other lessons aboard will not quickly be forgotten.

Another factor in favor was the cooperation of the community. Other good ideas have foundered for a lack of support. For this project there was cooperation from practically every quarter.

There was the Parent-Teacher Association, through whose Environmental Education chairman Mrs. Mildred Kurtz, the idea of bringing Clearwater to New Rochelle was first broached. Her efforts and those of many of her fellow PTA council volunteers not only secured the boat for our schools but raised the lion's share of the money to pay for it.

Then there was the contribution of the city. Despite a number of technical obstacles that made cooperation inconvenient, the city government agreed to provide a facility for docking Clearwater and for taking care of the other provisions necessary to the maintenance of the vessel and the comfort of her crew while she was with us.

There were a number of our secondary students, members of various ecology clubs at the high school and junior highs, who volunteered to help PTA Council with the fund raising and help as teacher aides during the daily class trips.

There were the teachers who volunteered to put together the curriculum that is used before, during and after each class visit. They, and science helping teacher Miss Adrienne Bedelle who spends as much time aboard assisting the visiting teachers as she can take from her regular outdoor classroom program, have put together a course of study that has been praised by all who have seen it and is sought by others interested in environmental education.

(Also to be mentioned are the sixth grade teachers, who overcame insufficient planning time; individual indifference to, or fear of, sailing and water; and the vagaries of spring weather so their classes could take part.)

CLASSROOM-ON-WATER THRILLS KIDS, BUT THAT POLLUTION!

(By Steve Brown)

For the past two weeks, New Rochelle sixth-grade classes have had enjoyable rides on the sloop Clearwater as part of a special classroom-on-the Sound curriculum. Judging from the reactions of 25 youngsters at Trinity Elementary School, the cruises generated great interest.

Experiments with water samples collected from Long Island Sound seemed to be most favored. For example, Arthur Coleman, 11, a member of Mrs. Bernadette Farry's class, displayed a vial of water taken from New Rochelle harbor where the Clearwater docks at the police pier. He added several water-purifying chemicals in a vain attempt to remove solid matter suspended in the sample.

He concluded that if we wished to produce potable water by desalinating sea water, pollution of offshore areas such as the Sound must be stopped first. After adding the chemicals, he summed up the experiment this way:

"We can't really take this junk out of the water."

Karen Berger, 11, gave two reports on her analyses of water taken from three spots along the Clearwater's route. One experiment measured the acidity-alkalinity of the water on a color-coded Ph scale. She found the water in the open area of the Sound to be neutral and, therefore, good for fish life.

However, she found the water near the dock too alkaline to support animal life. A sample taken halfway between the pier and the open water was too acid to be a viable environment for fish.

For her second analysis, Karen inspected three samples under a microscope. She reported that the number of bacteria was very high in the dock area and that it decreased in waters nearer the center of the Sound.

She also reported having seen under the microscope less tiny aquatic animals that she described as "fish-like, with brown scales and little strings in front like antennae."

These were found mostly in open water, she said. There were none in her sample from the dock area, which yielded only algae under inspection. Her report on the voyage included drawings of her microscopic studies.

Michael Herman, 11, conducted three tests on his water sample. Besides measuring acidity and alkalinity, he analyzed the water for its iron and mineral contents. In a similar experiment, Kelly Albanese, 11, compared sea water and tap water in acidity and microscopic tests.

Intrigued by the testing during the voyage, Alfred James, 12, and Arthur Coleman decided to sample the water in New Rochelle's Hudson Park swimming area last weekend. Alfred reported that "most of the water is actually too alkaline and could be a dangerous irritant to the skin."

He also reported that water in the dock area contained "living things" as seen through the microscope. He described them as "squiggly, miniature worms and round ones like corpuscles." As far as he is concerned, most of the harbor water is "no good for drinking or swimming."

Tom Turci, 12, said he had treated his water samples with red dye before microscopic examination. Holding up a test tube filled with red-tinted water, Tom announced that he had also found many living things,

which he described as "all different kinds of bugs—round ones and long, skinny ones."

While analyzing water samples for pollution was the most popular endeavor among Mrs. Farry's youngsters, other subjects were also studied. For example, Lewis Lenz, 12, delivered a report on the historical background of the Clearwater.

Because the ship is a reproduction of a 19th Century Hudson River sailing vessel for passengers and cargo, Lewis' report summarized the era when such ships were the backbone of commerce on the Eastern Seaboard and the Hudson Valley.

As the sailing cargo sloop became obsolete and disappeared from the shipping lanes, Lewis reported, pollution in the Hudson began to increase. As a reminder of the days when the river ran purer, Hudson River Sloop Restoration, Inc., decided to build the reproduction of the Clearwater in May 1967, Lewis said.

With his report, Lewis displayed photographs of pleasure craft and racing boats built along the same lines as the gaff-rigged sloop.

"Of course," he said, "these boats are much smaller than the Clearwater," which is 75 feet long and weighs 100 tons.

Each student wrote a report describing the voyage. Many illustrated them with sketches and drawings of the sloop, other boats, lighthouses and landmarks. The reports prominently mentioned gusty winds, water splashing onto the deck and the exciting moment when the huge mainsail ripped with a loud clap.

Because the cruise has piqued the children's interest in water pollution, Mrs. Farry said, she plans to have them sample and test the water off Hudson Park every week, if possible, until the end of the school year.

OH, FOR SAILOR'S LIFE! CRY HAPPY KIDS AT SEA

(By Steve Brown)

For most elementary school pupils, a "field trip" consists of filling a chartered bus with 40 or so (at least one of whom gets carsick) and spending a few hours in an overheated museum or aromatic zoo.

But for 1,200 sixth-graders in the City School District of New Rochelle, an innovation has been provided, which Cinderella-like, transforms the diesel-power bus into a sail-power sloop and the stuffy museum into water, sun and fresh air.

Financed jointly by the New Rochelle Board of Education and funds collected by the city's Council of Parent-Teacher Associations, the Clearwater, a replica of a 19th Century Hudson River sailing cargo sloop, has been retained as a floating classroom for a month. The first four-hour sail for pupils was held last Tuesday during a bright, breezy period between 10 a.m. and 2 p.m.

Judging by the enthusiasm of the participating classes, one from Ward and the other from Trinity, the trips on Long Island Sound are a success.

KIDS TAKE SAMPLES

As part of the special curriculum set up by a committee of teachers, the pupils measured the water's temperature at one and two fathoms (six and 12 feet for landlubbers), took samples of water for analysis, kept logs of the ship activities and gained at least a basic understanding of how sailing ships use the wind for locomotion.

The shipboard experiments were preceded by classroom instruction and will be followed by more classroom time devoted to analyzing the cruise. Topics included the effects of pollution on the environment, history of the Hudson sloop trade, geography of the Hudson River Valley and Long Island Sound, marine biology, songs and literature of the 19th Century and the seamen who sailed the cargo sloops.

Awaiting departure from the harbor police pier in New Rochelle, the sixth-graders excitedly examined the ship, paying particular attention to the tall mast, long boom for the mainsail, maze of lines, passageways leading to quarters below and even the chimney pipe emitting a curl of smoke from the wood-burning stove used to ward off the morning's chill in the main cabin.

After donning life vests, with all the commotion necessary for youngsters, they watched the crew maneuver the sloop out of the small harbor, using only the jib. Capt. Allan Aunapu, a friendly man with a full beard and bushy mane of reddish-brown hair, delighted the children. He shunned one of the few 20th century gadgets permitted on board—the auxiliary engine.

THEY SING AND HAUL

At the mouth of the harbor, the children suddenly fell silent in rapt attention as the 11-man crew broke into a work chant and hauled away at lines to raise the massive main sail. Measuring 2,910 square feet, the main sail is the largest single sail in use today and is augmented by a jib and top sail.

Asked what had been the most impressive part of the cruise, Jiro Tamura, 12, of 220 Pelham Road quickly answered, "seeing the main sail hauled up." Jiro who is student president of Trinity Elementary, kept a log during the trip.

Beside "Captain Al," as he was known to the children, the ship has two full-time crew members. First Mate Reed Haslam leads the crew in raising and lowering sail and handling the sails during tacking maneuvers. Second Mate Steward Jim Maugham performs double duty as a deck hand and cook for the crew, a specialty from his galley being strong coffee laced with cinnamon.

Eight volunteers, who usually serve for a week, make up the rest of the crew. Hudson River Sloop Restoration, Inc., a nonprofit organization, originated the idea and collected funds to build the replica. Most of the weekly volunteers are members of Restoration, including Don Taube, who crewed most of last year and shows up "whenever we need him," according to First Mate Haslam.

HANDLE THE TILLER

The crew patiently answered the children's numerous questions. Captain Al showed them how to read his chart and let a few help him handle the tiller for the one-ton rudder.

Adrienne Bedelle, science teacher and project chairman of the curriculum committee, was aboard to supervise the water samplings and other experiments. She also pointed out landmarks to the youngsters.

Also on board were Robert S. Spillane, superintendent of schools, and Richard Olcott, administrative assistant. Olcott, who played an important role in creating the special curriculum, lent a hand with the lines during course changes and docking.

The pupils showed that they paid attention to their pre-cruise instruction by using nautical terms with ease, especially "come about." That sailing maneuver involved swinging the main boom across the afterdeck, and never failed to thrill the youngsters.

Folk singer and conservationist Pete Seeger provided much of the impetus in founding Restoration and served as chairman of the board for several years. Mrs. John Duffy of Cold Spring, N.Y., was elected chairman last November after Seeger had stepped down. She also was aboard.

POLLUTION SYMBOL

The sloop has become a symbol of the fight to stop pollution of air and water. Alert pupils spotted floating debris, such as an empty plastic bleach bottle. Others mildly protested when Captain Al reluctantly resorted to the auxiliary engine as he negotiated the narrow passage back to the dock.

After docking, the crew broke out a harmonica, guitar and banjo and led the children in several folk songs and sea chanties before the left for home.

The Clearwater was launched almost two years ago in South Bristol, Me., after construction at the Harvey Gammage Shipyard, one of the few shipbuilding firms still familiar with sloop construction. Measuring 75 feet in length and weighing 100 tons, she cost more than $150,000.

Olcott noted that many pupils had never been on a boat, power or sail. Those who have sailed, he said, probably never rode on a ship so large or historically significant.

The children seemed to thing the cruise was significant because between their experiments and other activities several collected autographs of the crew for scrapbooks.

The Clearwater will be in New Rochelle until May 18, unless extra time is needed to make up for cruises canceled by bad weather. Night sailings for adults are also planned during the sloop's stay.

COLUMBIA RIVER FISHERY RESOURCE THREATENED BY NITROGEN SUPERSATURATION

HON. MARK O. HATFIELD

OF OREGON

IN THE SENATE OF THE UNITED STATES

Wednesday, May 19, 1971

Mr. HATFIELD. Mr. President, yesterday I had the opportunity to appear before the Public Works Subcommittee of the Appropriations Committee to testify in support of a number of public works projects in Oregon.

A major part of my remarks, however, dealt with a menacing threat to the famous fishing resource of the Columbia River and Snake River. As I stated in my remarks our fishery resource "is suffering catastrophic losses from nitrogen supersaturation of the water."

Because of the intense interest in this subject, and because of its meaning across the country unless strong corrective action is taken soon, I ask unanimous consent that the portion of my statement to the committee dealing with nitrogen supersaturation appear at this point in the RECORD.

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

STATEMENT OF SENATOR MARK O. HATFIELD

Mr. Chairman, the basic fishery resource of the Columbia and Snake River systems in the Pacific Northwest is suffering catastrophic annual losses from nitrogen supersaturation of the water and corrective actions necessary cannot await the normal process of Congressional appropriations. (Nitrogen is a colorless, tasteless, odorless, gaseous element that constitutes 4/5ths of the atmosphere by volume, and is a constituent of all living tissues.)

Nitrogen supersaturation is caused by water picking up air as it plunges over the spillway of a dam into a basin below. The nitrogen creates gas bubbles in the blood vessels of fish, impairing or destroying them.

Research conducted by the National Marine Fisheries Service (National Oceanographic and Atmospheric Adm., Department of Commerce) indicates an estimated loss of up to 90% of the seaward migration of juvenile salmon and steelhead in 1970 from the Upper Basin of the Columbia and Snake Rivers, primarily from nitrogen supersaturation.

The disastrous annual loss of fish runs in the Columbia and Snake River systems from nitrogen supersaturation presents a challenge to Congress and the President to prove they mean what they say about protecting the nation's natural resources and environment. Prompt and extraordinary action is needed now to eliminate the causes of these massive losses of fish in the Northwest.

I propose the Senate Appropriations Committee initiate emergency legislation or legislative intent, to allow the President to immediately authorize broad discretionary powers to the Chief of Engineers to solve the nitrogen supersaturation problem in all river systems in the most expeditious, feasible and practicable manner with funds now available to the Corps of Engineers and from funds to be made available in the Joint Resolution making continuing appropriations for fiscal 1972, and from the fiscal 1972 appropriations. This special authority should also provide for the transfer of Corps of Engineers' funds to other Federal agencies for technical assistance and services.

Until nitrogen supersaturation was recently identified as the major hazard to fish runs in the Columbia and Snake River systems, the powerhouse turbine-generator units in the dams were considered to be the primary cause of mortality of seaward migrants of juvenile fish.

The National Marine Fisheries Service has been researching fish passage through turbines for a number of years and has developed a screen for turbine intakes to deflect fish from going through the turbines and, which, instead, turns them into a bypass system. The National Marine Fisheries Service is now trapping and collecting a comparatively small number of the seaward runs at Little Goose Lock and Dam and trucking them over 250 miles downstream for release below Bonneville Dam, the lowest dam on the Columbia River, thereby protecting the fish from exposure to nitrogen supersaturation.

Since nitrogen supersaturation is picked up in water that plunges over the spillway of dams, the basic objective is to reduce spillage over the dams.

To reduce spillage the Corps of Engineers has developed a slotted bulkhead, which is a gate full of rectangular holes, that is installed in the intake gate of the skeleton powerhouse bays in the dams designed for future turbine-generator units. The slotted gate allows water to pass through, rather than over, the dam, thereby decreasing the volume of water exposed to the air to pick up nitrogen.

A prototype installation of the slotted bulkhead was tested in one skeleton bay at the Little Goose Lock and Dam starting last Monday, May 10, 1971. The preliminary results of the first day of tests revealed that mechanically, structurally, and hydraulically, the slotted bulkheads do provide a method of alleviating nitrogen supersaturation in the water passing through them. Samples of water taken by the National Marine Fisheries Service from above the dam and below the dam after the water passed through the slotted bulkhead showed no increase in nitrogen.

The causes of mortality of fish passing through hydroelectric projects have now been brought into sharp focus. The innovations and experiments to date by scientists and engineers involved indicate that reaching the objective of saving the seaward fish runs is practicable. The need now is for funds to complete the necessary corrective facilities as quickly as possible.

The Corps of Engineers estimate that diversion of water through slotted bulkheads in the three skeleton bays at each of the three existing Dams (at Ice Harbor, Little Goose and Lower Monumental), plus the flow through the three powerhouse turbine-generator units at these projects will reduce the spill period from about 80 to 18 days in an average runoff year.

Completion in 1973 of the large Libby and Dworshak reservoirs, in the United States, and Mica, in Canada, will add 19 million acre-feet of storage which will reduce the amount spilled at downstream dams, thereby reducing nitrogen supersaturation. The 16 turbines being installed in John Day Dam will be operational by October, 1971, and 8 additional units in The Dalles Dam by May 1974, will significally reduce spills at these projects.

The Corps of Engineers' scheme for passing water through slotted bulkheads was developed after the fiscal 1972 budget program was formulated; therefore, no funds are included in the President's fiscal 1972 program for slotted bulkheads in the Snake River Dams, where fish losses are the greatest. The Corps of Engineers' capabilities for use of additional funds for the three Snake River Dams, including funds for the slotted bulkheads, are as follows:

	Included in 1972 budget	Fiscal 1972 capability	Costs of slotted bulkheads included in capability[1]
Ice Harbor	$1,000,000	$4,600,000	$3,400,000
Little Goose	0	7,200,000	4,360,000
Lower Monumental	2,500,000	7,700,000	4,415,000

[1] Of these costs approximately $1,500,000 for each project can be classified as a cost for mitigation of nitrogen; the remaining costs can be classified as advance installation necessary for completion of the powerhouse.

The Corps of Engineers indicates that all of the slotted bulkheads for the three Snake River dams can be installed by April, 1972, if authority and funding is made available now. Under the normal process of appropriations additions for unbudgeted items are not usually allocated until late fall, which would not allow sufficient time to complete installation of all slotted bulkheads before next years fish runs. This is why I recommend emergency measures now.

I have attached to my statement a Joint Resolution of March 23, 1971, by the Governors of Oregon, Idaho and Washington, petitioning President Nixon and Congress to provide immediate funding to the Corps of Engineers for eight critically necessary slotted bulkheads for installation at Little Goose, Lower Monumental and Ice Harbor Dams, and accelerate turbine installations in Columbia River system dams to reach full potential of these structures as rapidly as possible.

I am forwarding a letter today to Senator Magnuson, Chairman of the Senate Commerce Committee, which contains a suggestion that he request the Commerce Department's National Marine Fisheries Service to provide a prompt report to him on the capability and needs of its fish hatcheries on the Columbia River and in the Columbia Basin for providing a supply of fish to replace or rehabilitate fish runs lost from nitrogen supersaturation.

It may also be necessary to propose budget additions to allow the Commerce Department's National Marine Fisheries Service to accelerate hatchery production of stocks to provide replacements for losses from nitrogen supersaturation.

While my proposals here are for emergency measures I recognize that the nitrogen supersaturation problem will require continuation of a highly intensified research and development program to provide the best possible long-term solution as soon as practicable.

MAN'S HUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 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?

AMERICAN TROOP ADDICTION IN VIETNAM

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 1971

Mr. MURPHY of Illinois. Mr. Speaker, I wish to insert in the RECORD the following New York Times article indicating the seriousness of American troop addiction in Vietnam. The article points to the epidemic proportions of the addiction and notes that present measures to deal with the problem are ineffective.

The facts of the articles substantiate the evidence uncovered in my recent fact-finding mission abroad to study possible controls for the international traffic in drugs. Since my return to the States, I have been flooded with letters from people who feel compelled to write of their personal experiences with drug addiction, both direct and indirect. These letters further substantiate my findings overseas.

One young lieutenant, still on active duty in Vietnam, wrote of his experiences with an Army human relations team touring parts of Vietnam. His team concluded that in certain areas, combat or operational effectiveness was impaired by heroin use and that the rate of usage was far higher than generally believed or admitted by high-ranking officers. The lieutenant's command operates on the estimate of 35–40 percent addiction.

The text of the article follows:

[From the New York Times, May 16, 1971]

G.I. HEROIN ADDICTION EPIDEMIC IN VIETNAM

(By Alvin M. Shuster)

SAIGON, South Vietnam, May 15.—The use of heroin by American troops in Vietnam has reached epidemic proportions.

The United States military command, the American Embassy and the South Vietnamese Government have been slow to awaken to the crisis. Now they are intensifying their efforts to curtail the easy flow of heroin to the soldiers, punish the sellers and rehabilitate the soaring numbers of Americans who use what they and the Vietnamese sellers call "scag."

So serious is the problem considered that Ambassador Ellsworth Bunker and Gen. Creighton W. Abrams, the military commander, recently met with President Nguyen Van Thieu on measures to be taken by the Saigon Government, including agreement on a special task force that will now report directly to Mr. Thieu.

John Ingersoll, the Director of the Bureau of Narcotics and Dangerous Drugs, also conferred with Mr. Thieu and other officials and returned to Washington, reportedly alarmed at the ease with which heroin circulates and fearful of the danger to American society when the addicted return craving a drug that costs many times more in the United States than it does here.

The epidemic is seen by many here as the Army's last great tragedy in Vietnam.

"Tens of thousands of soldiers are going back as walking time bombs," said a military officer in the drug field. "And the sad thing is that there is no real program under way, despite what my superiors say, to salvage these guys."

Most efforts so far, whether aimed at drying up the supplies or handling the addicted, are proving ineffective.

While moves to crack down on smuggling and improve police work are clearly important, there are experts here who argue that the pushers will merely counter by increasing their level of competence.

Accordingly, they say, the best hope lies in trying to save those young Americans who will continue to be exposed to the drug, readily at hand on Army bases, in the field, in hospitals and on the streets of every city and village near American installations.

CONFUSION AND UNCERTAINTY

Like a parent who has suddenly discovered that his son is a junkie, the United States command has reacted with confusion and uncertainty. Should the kid be punished and kicked out of the house? Or should he be encouraged to confess all and be helped to recover?

The answer of the command has been to try both, but with the heavier emphasis on punishment. Its officers are arguing the basic question of whether the military has a responsibility to go all-out to cure men they view as weak enough to use heroin. And the command does not want to make treatment of drug users "too attractive" out of fear that more men would turn to heroin just to get out of Vietnam.

Officially, the command says that it is "fully aware of the extent of the drug-use problem and is constantly developing new and innovative approaches." But it will not provide even estimates of the size of the problem, and the approaches it regards as "new and innovative" are viewed by many of its own officers as haphazard and unsure.

OVERDOSE DEATHS ON RISE

The figure on heroin users most often heard here is about 10 to 15 percent of the lower-ranking enlisted men. Since they make up about 245,000 of the 277,000 American soldiers here, this would represent as many as 37,000 men.

Some officers working in the drug-suppression field, however, say that their estimates go as high as 25 per cent, or more than 60,000 enlisted men, most of whom are draftees. They say that some field surveys have reported units with more than 50 per cent of the men on heroin.

The death toll from heroin overdose is expected to rise this year as well, despite the reduction in American troops. Thirty-five soldiers died from overdoses in the first three months of this year. Last year the quarterly average was 26 for a total of 103.

Reflecting the trend, almost as many have been reported arrested on heroin charges in the first three months of this year as in all of last year.

Through March, a total of 1,084 servicemen were charged with heroin use or possession, against 1,146 in all of 1970. In 1969, before heroin's widespread use here, there were 250 arrests.

In explaining why so many soldiers have turned to heroin, Maj. Richard Ratner, a psychiatrist from the Bronx working at a rehabilitation center called Crossroads at Longbinh, the sprawling American support base near Saigon, said the men were reacting to Vietnam much like the deprived in a ghetto.

"Vietnam in many ways is a ghetto for the enlisted man," he said. "The soldiers don't want to be here, their living conditions are bad, they are surrounded by privileged classes, namely officers; there is accepted use of violence, and there is promiscuous sex. They react the way they do in a ghetto. They take drugs and try to forget. What most of the men say when they come in to the center, however, is that they took to heroin because of the boredom and hassle of life here."

REHABILITATION URGED

A key reason that many think the military should concentrate on rehabilitation is the view that it is easier to get a soldier off the habit here than after he returns home as an addict, even though the strength of the heroin here is far greater.

In the United States, heroin of about 5 per cent purity is injected. Either by smoking or sniffing soldiers here become addicted to heroin of about 95 per cent strength.

Some experts say that once addiction occurs it does not matter whether the user takes it intravenously or not because both types of users undergo severe withdrawal symptoms and hence crave the drug to avoid what the addicts here call the "jones", the pains of withdrawal. But not enough is known about smoking or sniffing the drug.

"We are taking the problem seriously because we think it is easier to get them off here, because they haven't been hooked as long as addicts in the States," said Brig. Gen. Robert Bernstein, the command's surgeon.

Despite the good intentions of many high-ranking officers and the length of the command's directives on drugs, many officers see the following faults in the present military program:

Rehabilitation is up to local commanders. The official directive says only that "rehabilitation centers are encouraged where feasible." Some commanders comply. Others leave the problem to medics at regular hospitals, to chaplains, to ex-addicts interested in curing others, or merely to the military police. A command spokesman defended this by saying that "we encourage individuality because we don't know the right patterns just as the solution escapes those in the States where many have long sought solutions."

Until today there has been no general policy on amnesty. The Army's program allows an addict to turn himself in for treatment in exchange for immunity from prosecution so long as he is not under investigation. The Air Force has a "limited program" that spokesmen say provides "a little immunity." The Navy finally announced an immunity program for marines and sailors.

The Army has only 10 rehabilitation centers, the largest able to handle about 30 men at a time. The men are kept five days to two weeks and then usually sent back to their units. In most instances, there is little continuing counseling.

Addicts are given no second chance. "The trouble is that once you go into that amnesty program you are a marked man back in your own unit," said one. "You can only do it once. The next time it's jail or a bad-conduct discharge that stays with you the rest of your life. Let's face it. I would have never been on the stuff if they hadn't sent me over here."

Because of the heavier reliance on punishment, drug cases are now clogging the military justice system. "Drug cases have become to the judicial system here what automobile accidents have become to the civil courts at home," said Henry Aronson of the Lawyers Military Defense Committee, which provides civilian counsel for accused soldiers.

In citing what they call a lack of interest in curing the addicts, some officers here are pointing to a study prepared by the Army for the establishment of a "security facility for drug abusers," an idea opposed by these officers who call it a "kind of drug concentration camp."

The report, called a "feasibility study," was signed by the deputy provost marshal. It suggests setting up the unit at Camp Frenzell Jones, near Saigon, for 125 soldiers facing charges of drug use or possession. The idea, one officer said, would be to speed up disciplinary action, with prosecutors, judges, and defense counsel on hand.

"They may get some medical attention, too," said an officer. "But the purpose is clearly to get the guys out of the service fast. I only wish the state of thought on rehabilitation was as advanced as that on punishment."

In dealing with the crisis and trying to persuade the young soldiers to avoid the temptations of heroin, the command has also been running into a credibility problem stemming from its earlier intense campaign against marijuana.

"My feeling is that the campaign against grass may have been counterproductive," said one Army doctor. "We kept telling them how dangerous that was. They tried it, probably tried at home first, and knew they weren't dying. We tell them how dangerous smoking scag is and they don't believe it. They find out soon enough, but too late."

Some addicts who may be exaggerating say that the crackdown and the arrests for smoking marijuana may have driven some soldiers to heroin. As one explained it:

"We smoke grass in the hootch and anybody can smell it and we're in trouble. We smoke scag and you have to be in the scag bag to detect it. We can smoke it in formation, in the orderly room, in the mess and nobody's going to bust you."

No one here is suggesting that a better rehabilitation program by the military is the ultimate solution. Not all addicts could be saved by it, but command spokesmen agree that much more in the way of psychiatric, and medical counseling has to be done.

"HAD TO SHIFT GEARS FAST"

"We had to shift gears fast from worry about marijuana to heroin and we're still shifting," one officer said. "It's just so new for us."

It was new, as well, for a 21-year-old from Georgia sitting this week in the Crossroads Center at Longbinh. A former military policeman who won the bronze star shortly after he arrived here, the soldier said he had never touched drugs in the United States.

"I moved in with this Vietnamese girl," he said. "I thought I'd try some scag. I never thought it would get to me. I got involved in the PX. The scag was everywhere, even in the hospital where I had to go for a time with a bad leg.

"I tell you it ruined my life. All it does is tear you up. All you think about is scag. I am going home soon and I don't want to go home strung out. I'm off and I'm staying off."

THE TROTSKYITES AND THE MAY DAY TRIBE

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 1971

Mr. STEIGER of Arizona. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

THE TROTSKYITES RETURN TO ACTION

(By Victor Riesel)

WASHINGTON.—The "popular front" is the rage again—but this time right on these debris-strewn streets and parks.

Leaders of powerful unions—and their second lines of command—took to the streets these past days. Union money poured into central command posts through which ran the influences of the May Day Tribe which has been strictly from hunger and up-tight on disruption—such as invading Sen. Barry Goldwater's headquarters and strewing red paint on furniture and books.

Union money for delegations of "unemployed." Trade union dollars for buses, food, lodging. Policy-making leaders from New York, Newark, and the central coalition of Detroit labor threw their support behind the demonstrators—and will disclaim any responsibility for the militants.

For a long while the Trotsykites—working as the Socialist Workers Party—have needed political and financial transfusions. They operated quietly out of a lower Broadway (in

New York City) headquarters for decades after their leader, Farrell Dobbs, left Minneapolis and chose the party instead of the Teamsters.

But suddenly and dramatically the "Trots" flourished. They sped across campuses. Their Young Socialist Alliance became—and still is—the swiftest growing revolutionary youth organization in the land.

It is this Young Alliance, the youth arm of the Socialist Workers Party, which the authorities say had a heavy hand in the April 24 demonstrations. And in these marches and the rallies were officials of at least 10 major unions. It was the Popular Front all over again.

But the tens of thousands of long-haired "kids" went home after they had demonstrated. Not the "Trots" and the others working in underground tribes. They are not basically interested in ending this war or any war. They are passionately dedicated to proving they can snarl the government.

Then will come the industrial action. They will hit plants, or broadcasting studios—or national labor headquarters. They will attempt to slash cross country highway transportation. They will hit strategic truck terminals if they can have their revolutionary way.

And when all this happens, those unionists in New York and Detroit who paid some of the bills for the so-called anti-war alliance should know that the popular front always devours its own.

LAW DAY

HON. JOHN WARE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 1971

Mr. WARE. Mr. Speaker, May 1 was Law Day in the United States, and the Daily Local News of West Chester, Pa., ran an editorial on what the paper considers the real meaning of law. Because I consider the message most timely and appropriate, I would like it to have the widest readership possible, and take great pleasure in including it in the RECORD:

LAW DAY

Law, in the minds of many, especially children, is an abstract sort of thing. They can't see it yet they know it is there in the person of a police officer, a magistrate, a judge and they realize that if they break the law they could very well experience a confrontation with those whose responsibility it is to uphold the law.

There are those in our country who have the mistaken notion that if you don't like a certain law, there is no need to obey it. They are also mistaken in thinking that by resorting to violence they can change the law. The peaceful and constitutional route to change has no appeal for them.

A distinguished American scored an important point recently when he said that "it is the American tradition that no person is so big that he is above the law and no man so small that he cannot look to the law for protection. The rule of law is the rule of reason, with rights and responsibilities going hand in hand."

Law, basically, is the body of rules by which we try to regulate our daily activities in order to live together in the greatest harmony and to reach the best balance between a stable community and freedom of the individual. Without law there could be no freedom. Those who violate the law have demonstrated this time and again. Respect for law is basic to our way of life, a fact which is being emphasized today wherever Law Day ceremonies are being conducted.

VIETNAM DEADLINE

HON. GEORGE McGOVERN

OF SOUTH DAKOTA

IN THE SENATE OF THE UNITED STATES

Wednesday, May 19, 1971

Mr. McGOVERN. Mr. President, on April 20 of this year, the senior Senator from Oregon (Mr. HATFIELD) supplied what I regard as one of the most persuasive statements which has yet appeared anywhere on the wisdom of setting a firm deadline for the withdrawal of all American forces from Indochina by a date certain.

Senator HATFIELD's comprehensive analysis, which he delivered before the Senate Committee on Foreign Relations' hearings on end-the-war proposals, deserves the attention of each Member of Congress. I therefore ask unanimous consent that it be printed at this point in the RECORD, followed by the bill, S. 376, which we will soon bring before the Senate.

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

TESTIMONY BEFORE THE FOREIGN RELATIONS COMMITTEE ON THE VIETNAM DISENGAGEMENT ACT

Mr. HATFIELD. Mr. Chairman and members of the Committee.

The Central question throughout the country and before this Committee is whether we should follow the direction set forth by the President, trusting him and his policy where specifics have not been revealed, or whether we should adopt a legislative initiative designed to end the war, as the American people clearly want Congress to do.

I should first like to clarify the differences, in intention and likely consequences, between the policy of the Administration and the legislative proposal I am co-sponsoring with 25 other Senators, which is pending before your Committee.

The thrust of the Administration's policy has increasingly placed less emphasis on the probability that negotiations will end the conflict. It has turned instead to "Vietnamization" as the solution.

Lack of clarity and ambiguity characterize the Administration's explanation of policy. In his address to the Nation April 7, 1971, the President said:

". . . our goal is a total American withdrawal from Vietnam.

"We can and we will reach that goal through our program of Vietnamization if necessary."

So we seem to be committed to continuing gradual troop reductions until, given the right conditions, American involvement can be brought to a close.

However, it is not clear whether this means the withdrawal of all our troops from Indochina.

It seems to me that this may not include all of our air power—especially that based in Thailand and at sea, but used in Indochina.

We do not know if the flow of military equipment and supplies to South Vietnam would continue after "American involvement" is ended.

Further, the President said last Friday, April 16th, that we will keep a residual force as well as our air power in Vietnam until the North Vietnamese release our prisoners of war.

And finally, during that same interview, the President stated that our military involvement will continue as long as:

"The South Vietnamese have not yet developed the capacity to defend themselves to take over from us the defense of their own country."

This pattern of calculated ambiguity, this reluctance to be candid with the American people, has seriously eroded confidence in the Administration's ability to lead us out of this war.

It is all the more unfortunate because the President has acknowledged the need for Americans to be fully informed about the policy they are asked to support. On November 3, 1969, the President said:

"The American people cannot and should not be asked to support a policy which involved the overriding issues of war and peace unless they know the truth about that policy."

The bill I am proposing (S. 376) presents an unequivocal determination to withdraw all United States forces. But more than that, it is designed as an initiative to end the war through a political settlement.

By making certain that we will remove all our forces by the end of this year, we would create a new political environment for the negotiations and could expect the following:

(1) A cease fire might be established. This has been suggested by the North Vietnamese and the People's Revolutionary Government (NLF) if we set a reasonable, public date for withdrawal.

(2) Authentic negotiations among the various Vietnamese factions on future political power in South Vietnam, and the means for its establishment, could take place. These negotiations would begin in earnest when the Thieu-Ky government realizes it can no longer rely on continual American military support to make up for the political strength that it lacks from its own people.

(3) Serious negotiations leading to the release of our prisoners of war could begin.

The point is that we must put our opponents to the test. We never have, and we never will bomb them into submission.

The threat and the use of our devastating air power will not obtain for us a cease-fire, a political settlement among the Vietnamese or the release of our prisoners. The way to "put pressure" on the other side, to negotiate on these issues is to set a date for our withdrawal.

Thus, this bill would decisively and expeditiously conclude our military role in Vietnam. But more important, it is the most likely alternative to promote a political settlement and bring a true end to the war, stopping the fighting and killing there.

Why do I advocate this alternative?

The first and most compelling reason is moral. I have come to believe that fundamental to all else, we must see our war policy and its consequences in moral terms. And from this perspective, the most distressing aspect of the policy we seem committed to pursue is that American life is valued far more than Asian life.

The announced intention of the President is to reduce American casualties, and this has been substantially accomplished. But, there seems to be little regard for Asian casualties.

While reducing the direct involvement of American soldiers in ground combat, we still provide the policy, the strategy, the money, the equipment, and the intensive, direct combat support to sustain the South Vietnamese regime and continue the fighting.

The Laotian operation well illustrates this. While in the technical sense, there was no direct American "ground combat" involvement in Laos, yet U.S. helicopters and planes flew an incredible 151,837 sorties in "support" of this venture.

American casualties were light. According to the Pentagon, of those troops giving air support to the operation, about 45 were killed, 89 wounded, and 28 missing-in-action. In addition, more than 90 U.S. troops were

killed on the ground in South Vietnam in conjunction with Lam Son 719, the Laotian operation. But, Vietnamese casualties on both sides were astronomical. Official estimates claimed about 1,445 ARVN troops died (some press reports stated ARVN deaths were far greater than official figures) and an estimated 13,842 enemy troops died.

The assumption is that if we can support the Thieu-Ky regime's continuing the war, but have fewer Americans die, while Asian blood continued to be spilled, then this war is somehow less wrong, and more tolerable.

I believe such policy is moraly impoverished. If this war is wrong—if it should not be continued, if it is not worth the cost, and if the human suffering it is causing cannot be justified by any goals—then it must be brought to an end.

It will not be made any more right simply because we have devised the strategy for fewer Americans to die each month. That after all, makes very little difference to the six million refugees who continue to suffer in Indochina as the war goes on, or to the families of the thousands of Vietnamese soldiers and innocent civilians throughout Indochina who will die in the months ahead.

We must take a hard look at what the human costs of the policy we are pursuing will be. During the first three months of this year 5,258 South Vietnamese soldiers died, according to the estimates of the Defense Department, and 41,407 North Vietnamese and National Liberation Front soldiers were killed.

There may be reason, of course, to doubt the accuracy of these figures, but let us assume that they are relatively valid. During the first three months of this year, fighting and casualties were light in January, moderate in February, and heavy in March due to the Laotian operation.

If we project from the level of casualties last year and during the first quarter of this year, and assume that Vietnamese casualties will remain about the same average level as the war goes on, then from now until the end of the year, over 100,000 Vietnamese soldiers are likely to die. From now until the end of 1972, as many as a quarter of a million soldiers could die as the result of policies that continue the war.

According to such projected estimates, the preponderance of these deaths are, of course, from the enemy ranks. Some of those still obsessed with the body count mentality may think this is encouraging for the success of our policy. I think it is immoral.

These probable costs in terms of human life do not include civilian casualties, which are even more difficult to calculate. The Defense Department has said that it makes no estimates of civilian casualties—a fact that I cannot comprehend, for it shows such a callous disregard for the human consequences of our policy.

The Senate Subcommittee on Refugees estimated that there were 25,000 civilians killed in South Vietnam last year, which would be over 3,000 more than the total number of South Vietnamese soldiers that died.

In Laos, more sparsely populated than Vietnam but intensively bombed, the Committee reported that 10,000 have died in the past year and a half. And, untold hundreds of thousands have been wounded and made homeless throughout all of Indochina.

Because our fire-power, compared to our opponent's is so overwhelming, the majority of the civilian casualties come as the consequence of our military action.

Since the beginning of the war, we have dropped about 5.6 million tons of bombs in Indochina. About 2.5 million of these have fallen during the present Administration's time in office. The President has reiterated his intention to continue to rely on air power in the future. On February 17 he said he would place no limits on the use of air power.

As such bombing continues, along with artillery, helicopter gunships and other fire power, thousands more civilians will be killed, wounded and made homeless as we pursue "Vietnamization."

These human costs, in my judgment, cannot be justified. The Vietnamese people do not want their war "Vietnamized". They want it ended.

There are those who suggest that we have no role in determining whether the South Vietnamese continue to fight the North Vietnamese. I completely disagree.

Our refusal to set a date for withdrawal, and our unyielding support of the Thieu-Ky regime, make a negotiated settlement to the conflict impossible. Fighting will continue as long as our forces are committed in that country and our policy is to support that regime.

In order to end the fighting, we must set the withdrawal date and seek the establishment of a cease-fire. At the same time, future political power in South Vietnam would have to be determined. The People's Revolutionary Government has offered an interim coalition government that would conduct elections. We and the South Vietnamese have suggested internationally supervised elections. These differences can be negotiated, in my judgment, among the Vietnamese.

It is not our responsibility to dictate or impose the terms of that settlement. But, we must remove our arbitrary support of the Thieu-Ky regime, forcing it to rely only on its own internal strength. In that atmosphere, a genuine settlement reflecting the indigenous balance of forces in Vietnam could be obtained.

The point is that we do have control over whether the fighting continues or ends in Indochina, and if we persist in our policy the war will go on.

If we adopt the approach of the Vietnam Disengagement Act, we will initiate the most realistic opportunity for a negotiated end to the fighting.

If we believe that all life—Asian and American—is equally valuable, then I cannot see how the human costs yet to come from our policy can be morally justified. I advocate an alternative to that policy in order to avoid those costs—in order to save human life.

The second consideration arguing for a decisive change in policy is constitutional.

These considerations have taken on an entirely new relevance and sense of urgency with the repeal of the Gulf of Tonkin Resolution last December. I do not understand what Constitutional basis there is for our involvement in Indochina since that time.

Your Committee has already had hearings on the question of War Powers, and the responsibilities delegated to the Congress by the Constitution for authorizing military action.

Furthermore, with the leadership of your Committee, Congress passed the National Commitments Resolution June 25, 1969. As you will recall, the final version of that resolution drafted largely by Senator William Fulbright and Senator John Sherman Cooper, stated:

"Resolved, that (1) a national commitment for the purpose of this resolution means the use of armed forces of the United States, on foreign territory . . . and (2) it is the sense of the Senate that a national commitment by the United States results only from affirmative action taken by the executive and legislative branches of the United States Government by means of a treaty, statute, or concurrent resolution of both houses of Congress specifically providing for such commitment."

There is, of course, no treaty, no statute, and no concurrent resolution committing us to military involvement in Vietnam.

What legal, Constitutional basis does the President have for our involvement?

Howard K. Smith asked the President that question during their interview on July 1 last year. The President replied:

"The President of the United States has the Constitutional right—not only the right but the responsibility—to protect American forces when they are engaged in military actions."

When Mr. Smith pursued this question, asking the legal basis of our involvement once the Gulf of Tonkin Resolution was repealed, the President stated again:

"The legal justification is the one I have given and that is the right of the President of the United States under the Constitution to protect the lives of American men. That is the legal justification."

Now, I agree wholeheartedly that the President has the legal Constitutional authority for protecting our troops. And, he certainly has the Constitutional authority to withdraw them.

But, the issue is that the President's policy includes far more than that. He is pursuing "Vietnamization" and wants to give the South Vietnamese "a fair chance to defend themselves."

His policy, then, is committed to the military support of the Thieu-Ky government. What might this entail?

It will include the continued use of heavy bombing throughout Vietnam, Laos and Cambodia.

It might include future incursions into Laos, hinted at recently by General Creighton Abrams.

It could include the renewed bombing of North Vietnam.

And, it will mean continued U.S. military operations and combat support and firepower for ARVN operations throughout South Vietnam.

Now we may agree or disagree with the policy of Vietnamization. But regardless of our preferences, I do not believe the President has the legal, Constitutional authority for pursuing the objectives and goals of that policy.

There is a decisive difference between protecting our troops and withdrawing them from Vietnam, and pursuing Vietnamization.

If withdrawal is our only objective, that can be accomplished in a matter of months. And, our troops can best be protected by setting a date for completing our withdrawal and seeking a cease-fire. There is no question about the President's Constitutional authority to take these steps.

But, the President has made clear that we are committed for at least some time into the future to supporting the South Vietnamese government by our military involvement. His authority to do so surely does not come from his Constitutional power as Commander-in-Chief to protect our troops in battle. He has cited no other legal justification for those policy goals. In my judgment there is none.

If we set aside all other considerations, I believe that the Constitutional aspects of this problem alone compel the adoption of the Vietnam Disengagement Act.

Even if we were to win some victory in Vietnam, if the cost is the integrity of Constitutional government then that price alone is far too high.

The responsibility to redeem the viability of the Constitution rests at this point solely with the Congress. In that respect, this bill is far more a challenge to the Congress than to the President.

For Constitutional reasons alone, it is imperative that Congress adopt some legislative measure regarding our involvement in Indochina. The proposal I am supporting corresponds most closely with the wishes of Americans, and offers the best hope for an enduring settlement to this war. It would resolve the Constitutional dilemma that faces us and end the conflict that is eroding the foundations of our Government.

The clear intent of the Constitution, in Article I, Section 8, is to keep the powers of war decisively in the hands of the Congress, and thereby, the people.

It was for this reason that appropriations for armies are the only appropriations specifically limited to two years by the Constitution.

The framers of the Constitution did this to insure a continued review (and votes) by the Congress over any military appropriations.

As you know, the Founding Fathers consistently stressed the Congressional responsibility for war-making powers.

James Madison saw the dangers of excessive executive power in foreign affairs when he said:

"The management of foreign relations appears to be the most susceptible of abuse of all the trusts committed to a government because they can be concealed or disclosed in such parts and at such times as will best suit particular views; and because the body of the people are less capable of judging, and are more under the influence of prejudices, on that branch of their affairs, than of any other. Perhaps it is a universal truth that the loss of liberty at home is to be charged against danger real or pretended, from abroad." (Letter to Jefferson, May 13, 1789)

Under Article I, Section 8, Congress is empowered to:

"Provide for the Common Defense," "to declare war" and "raise and support armies."

The President's powers as Commander-in-Chief, outlined in Article 2, Section 2 are to be Commander over those armies raised by Congress and sent into wars which are declared by Congress.

As Alexander Hamilton said, the Commander-in-Chief's power "amounted to nothing more than the Supreme Command and direction of the military force, as the first General and Admiral . . ."

The power and authority for determining the purposes for which he exercises this control over the troops clearly rests with the Congress, the representatives of the people.

There is one final consideration that must weigh heavily on all Members of Congress and should, I believe, compel us to adopt the legislative initiatives outlined in this bill. That is the ability of this Government to maintain the faith of those whom it governs.

We would all agree, I believe, that this war, like no other event in our recent past, has undermined the belief of Americans in the viability of their political system.

Confidence and trust in the process of representative government, and in the Office of the Presidency, are all suffering as the casualties of this war.

As I talk with constituents and people throughout the country, I am constantly asked what basis there is for continued faith in our system.

People say to me "Three quarters of our people want the war over by the end of this year. But, the President doesn't listen and Congress does not act."

Particularly in the past year, since the operations into Cambodia and its aftermath, the disillusionment of people from all walks of life has grown. And, I fear for a country whose people are losing faith in the words of its leaders and the dreams of its founders.

It is hard to know what this will all mean for the destiny of our nation. But of this we can be certain—our Republic's most severe challenge is to restore its integrity in the eyes of the American people.

That will take much effort. But, it can begin if Congress takes the initiative in ending this war.

People want to believe in America's ideals. They want to have faith in our system. They want to have hope in our Government's ability to govern and lead. Let us not disappoint them. Let us preserve their dreams and renew our own.

S. 376

A bill to amend the Foreign Assistance Act of 1961, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Vietnam Disengagement Act of 1971.

SEC. 2. Congress finds and declares that under the Constitution of the United States the President and the Congress share responsibility for establishing, defining the authority for, and concluding foreign military commitments; that the repeal of the Gulf of Tonkin Resolution raises new uncertainties about the source of authority for American involvement in Vietnam; that both the domestic and foreign policy interests of the United States require an expeditious end to the war in Vietnam; that the conflict can best be resolved through a political settlement among the parties concerned; that in light of all considerations, the solution which offers the greatest safety, the highest measure of honor, the best likelihood for the return of United States prisoners, and the most meaningful opportunity for a political settlement would be the establishment of a date certain for the orderly withdrawal of all United States Armed Forces from Vietnam.

SEC. 3. Chapter 1 of part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 620. (a) In accordance with public statements of policy by the President, no funds authorized to be appropriated under this or any other Act may be obligated or expended to maintain a troop level of more than two hundred and eighty-four thousand Armed Forces of the United States in Vietnam after May 1, 1971.

"(b) After May 1, 1971, funds authorized or appropriated under this or any other Act may be expended in connection with activities of American Armed Forces in and over Vietnam only to accomplish the following objectives:

"(1) to bring about the orderly termination of military operations there and the safe and systematic withdrawal of remaining American Armed Forces by December 31, 1971;

"(2) to insure the release of prisoners of war;

"(3) to arrange asylum or other means to assure the safety of South Vietnamese who might be physically endangered by withdrawal of American forces; and

"(4) to provide assistance to the Republic of Vietnam consistent with the foregoing objectives."

DEMOCRATIC POLICY COUNCIL LABELS FUNDS IMPOUNDMENT BY BUDGET BUREAU "OUTRAGEOUS" AFFRONT TO UNEMPLOYED

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 1971

Mr. EVINS of Tennessee. Mr. Speaker, the Policy Council of the Democratic National Committee recently adopted a resolution critical of the Office of Management and Budget for its wholesale freezing and withholding of funds appropriated by the Congress at a time when there is substantial unemployment.

As chairman of the Subcommittee on Public Works Appropriations I should add that Members of Congress and public witnesses from throughout the Nation have been appearing daily before our committee deploring the slowdown, stretch-out, and freezing of funds for public works projects. While the Democratic Council has made a policy pronouncement on this matter, this is not a partisan issue. This is a bipartisan concern expressed by Members of the Senate, the House, and the public generally.

Because of the interest of my colleagues and the American people in this most important matter, I place in the RECORD herewith excerpts from the Democratic policy statement.

The excerpts follow:

EXCERPTS FROM THE DEMOCRATIC POLICY STATEMENT

The President has now impounded more than $12 billion of appropriated Federal funds. For Mr. Nixon to substitute his judgment for the expressed decisions of the Congress—a judgment now involving more than $12 billion of public money—is executive arrogance of the highest order. He has, for example, withheld almost a billion dollars for low rent public housing. He has withheld $583 million for the Model Cities Program. He has withheld $200 million for water sewerage facilities and $5.85 billion for highway aid.

At a time of substantial unemployment, the President's actions are particularly outrageous. Prompt release of these funds would provide thousands of jobs in local communities across the nation, as well as provide state and local governments with urgently needed Federal revenue in a variety of priority areas. The present total of impounded funds is twice the amount proposed by Mr. Nixon for general revenue sharing.

On April 27, the Democratic leadership in the Congress introduced a joint resolution instructing the President to release these impounded funds. We strongly request the immediate passage of this resolution by both the House and Senate.

THE INVERSION OF THE AMERICAN DREAM

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 1971

Mr. HELSTOSKI. Mr. Speaker, "The Inversion of the American Dream," by the Reverend Deane Starr, is a moving testament regarding America's heartbreak over the war in Indochina. Mr. Starr is the minister of the Unitarian Church in Summit, N.J.

Mr. Starr's message was sent to me by Mrs. Frederick W. Sinon of East Orange, N.J., to show how deeply concerned the congregation from the communities surrounding the church is about the war, and she wishes this message to be brought to the attention of this House and the administration.

The message was delivered to Mr. Starr's congregation on February 28, 1971. I insert it into the RECORD so that I can share it with my colleagues of this honorable body.

The message follows:

THE INVERSION OF THE AMERICAN DREAM

(By the Rev. Deane Starr, minister, the Unitarian Church in Summit, N.J.)

The United States is engaged in a war in Indochina which is entering its second dec-

ade. In spite of presidential assurances, and in spite of increasing disenchantment at home, it appears that we are going to pursue this war one way or another indefinitely. The grief that many of us feel is almost insupportable.

Thirty centuries ago a Hebrew prophet lamented that the Canaanites were sacrificing their sons and daughters on the altars of false gods. The creative power of religion was being perverted into a destructive force, consuming sacred human life. The destroyers were actually those who had created the life in the first place, sacrificing the fruit of their own love.

We no longer justify our acts of destruction in the name of religion, but we continue to sacrifice our own children to the "gods" of national pride, national aggrandizment, and national "honor." If one of us were to erect an altar and actually murder his son for religious purposes, he would be incarcerated as a madman. Yet in the name of national purpose, we daily sacrifice not only our own children, but also the hapless people of Southeast Asia.

With his extraordinary insight and brilliance, Abraham Lincoln stated the devastating and tragic contradiction in American life when he wrote, "We all declare for liberty, but in using the same word we do not at all mean the same thing. With some the word liberty may mean for each man to do as he pleases with himself and the product of his labor, while with others the same word may mean for some to do as they please with other men and the product of other men's labors."

With these simple words Lincoln expressed not only the American Dream as it was understood by Jefferson and Paine, but also the inversion of the dream as it has been practiced by many Americans. Just as surely as the dream has been a source of well-being in the lives of many, so the nightmare caused by the inversion of the dream has been indescribably tragic in the lives of others. The history of America is the history of the contradictions resulting from both the realization and the inversion of the dream.

We have stated the rights of all men. We have gloried in the exercise of these rights by many Americans. But we have also denied these same rights to large segments of our own population. The American Indians and the Afro Americans are the most notable victims of our demonic ability to transform the dream into a nightmare. In the name of liberty and free enterprise, those with power have done as they pleased with the lives, labor and property of Indians, Blacks, and many other minority groups. For these victims of exploitation, praise of America's devotion to equality and the rights of all men is a bitter mockery.

Now that we have become a world power, the contradiction between our two concepts of liberty is having world-wide effects. On the one hand our concept of equality for all men has been apprehended by those who have long histories of subjection. They are attempting to implement it. Meanwhile we practice the inversion of the concept, the tyranny of the powerful which some men persist in calling liberty. In the name of liberty we claim the right to do as we please with the lives of countless Asians. Decisionmakers in America feel free to act in what they claim is America's best interest, without regard to the lives and rights of non-Americans a half a world away. And all in the name of liberty.

But liberty for whom? Liberty for the millions whom we have made permanently homeless? Liberty for the emaciated grandparents lugging the bodies of their dead into strange new refugee camps because these bodies cannot be buried at home and in peace? Liberty for the people of all ages and conditions who have been stuffed into ravines and brooks and caves the better to exterminate them *en masse*? Liberty for the tens of thousands of Vietnamese soldiers whose carcasses we have so gleefully counted in order to demonstrate a favorable ratio of killing? Liberty for the two hundred thousand deserted children who began life in the half-starved bodies of Vietnamese girls who surrendered to the lust of our own clean-cut American kids? Or liberty for those hosts of Americans whose souls have become brutalized and seared with delight in depravity? This is the "liberty" for which we squander our resources, divide our country, embitter our youth, mortgage our future, and jeopardize the entire world?

Certainly there is no liberty for the dead, the maimed, the homeless, the bastardized, the spiritually mutilated. But in a revolting and bizarre fashion there is liberty for those persons in power who define liberty as their right to do as they please with the lives of other persons. For these powerful few the American dream is not the dream of human equality, but the accumulation of privilege and the glorification of power. Some people in America seem to hold *these* truths to be self-evident: that power is the gift of God, and that those to whom He gives it are justified in using it in any way they see fit. Richard Nixon's campaign assurance was, "I do not seek the Presidency for the purpose of presiding over the destruction of the credibility of American power throughout the world." For those whose God is power, power conveys privilege, and the rights of the weak are inconsequential.

Playing upon the loyalties, the fears, and the corruption within each of us, the makers of decisions use good words such as freedom, peace, honor and justice, while in fact they are engaged in coercion, destruction, debasement and the denial of basic human rights. Thereby they gain the support of the public for a time. When, after a decade of deceit, of false claims and broken promises, public support finally begins to wane, the people discover that they have relinquished their power and their wishes are flaunted. Senator Fulbright recently stated that the President of the Country seems determined to do as he pleases in Southeast Asia and there is very little we can do about it. What a fantastic admission from the Chairman of the Senate Foreign Relations Committee. Those who have usurped the power that rightly belongs to the citizens of a democracy use it for theid own ends. Government with the consent of the governed becomes a mockery. And the intelligence of the electorate is continually insulted to by appeals to "reasons" which cannot bear scrutiny.

Certainly our objectives in this war are inscrutable. The stated reasons for our involvement do not hold up—under examination. Driven by some need to understand the incomprehensible, one is tempted to seek rational explanations which are manifestly abhorrent, such as the need to shore up the economy by means of war, or control by the madmen of the Pentagon or the C.I.A., or more recently, by the announcement that seventeen valuable oil leases are to be awarded by the Thieu-Ky government. Yet these explanations do not fully explain the horrors we are perpetrating. Nor do they quite explain the willingness of two egotistical American Presidents to sacrifice their political lives in defiance of the will of the majority of the American people.

My own bewildered mind finds uneasy sanctuary in the dictum of Lord Acton. "Power tends to corrupt and absolute power corrupts absolutely." The only adequate explanation I can find for America's actions, and for the actions of Presidents Johnson and Nixon, is that our power has so corrupted us that we lack the ability to act for the good of all mankind. Incredibly enough we even lack the ability to act for our own long-term health, as the present internal turmoil makes abundantly clear.

Yet our self-righteousness persists. Lt. Col. James E. Shaw can piously intone, "We should be proud of our country because the Americal . . . rules of engagement are based on Judeo-Christian traditions and are moral, unlike those of the enemy." My God. I suspect that our "friends" would prefer the immorality of the enemy, and that if they had any voice in our protection of their freedoms, they would urge us to cease and desist. Why is it true that even the women and children of South Vietnam are engaged in sabotaging our efforts and the efforts of our puppet regime? Because they want us out.

To be sure American troops are slowly being withdrawn now, but the war goes on by other means. Vietnamization, expanded bombings, close air support by American planes over wider fronts. The official talk is still of punishing the enemy; it is the familiar talk of military victory. The assumption when we invaded Laos was that Hanoi was down to its last supply routes along the Ho Chi Minh Trail, and that if these were cut the enemy would be crippled at least long enough to let us get out, and the South Vietnamese would be able to fend for themselves.

The assumption proved to be wrong, as so many assumptions about this war have been wrong. The record of miscalculations, of unfulfilled promises, of distortions of fact, is too vast to permit rehearsal. No business responsible to its stockholders could possibly survive such a record.

Where do you suppose we are going to go from here? Apparently we are not really going to wind down the war and come home. It is far more likely that we will finally provoke China or Russia or both into some overt act of defiance which will tend to unite the American people behind the President. Then we can breeze blithely and unitedly into World War Three, confident that we are dying in a worthy cause.

For the present we are apparently going to make continued withdrawals of foot soldiers in order to continue the pacification of America. Apparently we are going to continue pouring destruction from the skies, adding greater distance between ourselves and the mutilation for which we are responsible but which we prefer not to see. There seems to be little promise that our leaders are ready to admit our culpability and leave Asia to the Asians.

Recently the *New Yorker* published a lengthy editorial describing plans for the mass deportation of citizens of northern provinces in South Vietnam. Such deportation, if it actually occurs, will constitute one of the gravest totalitarian acts in the history of America's relations with other nations. But whether it is carried out or not, the evaluation made by the editorialist still stands. "This constitutes a way of looking at the people of South Vietnam that has dominated our policy unofficially since the beginning of the war. . . . The problem is the South Vietnamese themselves. Ordinarily, we regard people as *having* problems, but in Vietnam we regard them as *being* problems. Get rid of them—send them somewhere else—and you solve your problems. There will be no more starving, begging refugees, no more children throwing hand grenades, no more massacres of villages. Get rid of the whole civilian mass, with its crying children, and their crying mothers, its old people and its babies, its pigs and its chickens, and its sly but intractable spirit of resistence and defiance, and at last the Army and Air Force will have a clear field of fire for hundreds of miles, and will be able to start fighting the war the way a war should be fought. But fighting for what?" (*New Yorker*, JK 23, 1971)

Perhaps for the liberty of doing as we please with other men's lives and the fruit of other men's labor. Corrupted as she is by

her incredible power, America has become an irresponsible giant. She has lost her ability to respond to basic human needs, and she seems determined to flex her muscles and destroy anyone who opposes her, simply because she has the ability to do so.

There are at least two ways of being loyal to America. One is to be loyal to the dream of equality for all men and to protest any violation of that dream. Another is to feed the inversion of that dream, the inversion which defines liberty as the right to do as one pleases with other men's lives if one simply has the power. The tragedy of this moment in history is that tyranny in the name of liberty has become the dominant expression of our foreign policy. I really do not know what we can do about it except to continue to protest, and to lament.

When the Israelites were taken captive into Babylon, they were mocked and taunted by their captors. One of their great poets wrote:

By the waters of Babylon, there we sat down and wept,
When we remembered Zion.
On the willows there we hung up our lyres.
For our captors required of us songs,
And our tormentors mirth, saying,
"Sing us one of the songs of Zion."
"How shall we sing the Lord's song in a foreign land?"

Today I feel like a captive in my own country. The country I loved, which was partly a creation of my imagination, to be sure, but was also an expression of the highest vision mankind has ever known—this country has become to me Babylon. How can I sing the Lord's song, which is the song of freedom, in this foreign land? How can I sing, "My Country, 'tis of thee, sweet land of liberty?" How can I pledge allegiance to a flag which announces the four horsemen of the Apocalypse: Pestilence. Famine. War. Death? I stand silently and mournfully when the national anthem is played. I mourn for the America of my innocence, and the America of the Dream.

The Hebrew prophet also wrote:

If I forget you, O Jerusalem, let my right hand wither.
Let my tongue cleave to the roof of my mouth,
If I do not remember you
If I do not set Jerusalem above my highest joy.

I remember the New Jerusalem, the land of equality for all persons, and I long passionately for her rebirth.

MUSKIE STRONG IN NEW HAMPSHIRE

HON. PETER N. KYROS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 1971

Mr. KYROS. Mr. Speaker, this past weekend I had the pleasure of speaking at an important function in Manchester, N.H., which brought together the leaders of the Democratic Party in Maine's neighboring State.

I was most encouraged by the continued and mutual good will which exists between the leaders of the Democratic Parties in our two States. A column by Robert Healy in the Boston Globe of May 17, 1971, confirms the views which were expressed to me personally: Residents of the Granite State know that Senator Ed Muskie is one of their best friends. Mr. Healy's column follows:

NEW HAMSHIRE POLL SHOWS MUSKIE STRONG

The Boston Globe's New Hampshire poll of possible Democratic candidates for President is one of the more solid pieces of information as to why Sen. Edmund Muskie must still be considered the front-runner for the nomination and why in the end next year he may be difficult to defeat.

Muskie's strength at this time in New Hampshire is awesome. There are, of course, certain local circumstances contributing to this. Muskie is well-known in New Hampshire. There is the New England identification with him there. And yet the same could be said for Kennedy and Muskie runs more than 2-1 ahead of Kennedy. When Democratic voters were polled, 45 percent said they would like to see Muskie win and 20 percent said they would want to see Kennedy win.

Not all the states which will have popular primaries next year have set a date. But it would appear now that New Hampshire once again will be the first in the nation. Because of this it again will have great impact. Muskie should win it big, and the poll shows today that he would, to change a number of things.

Muskie is having some difficulty raising money. This affects organization and the ability of a candidate to move around as freely as he might wish. A candidate must first raise his money. A big New Hampshire primary victory could change that considerably.

Second, the breakdown of Muskie's appeal to the independents and Republicans who would vote in the Democratic primary is quite striking. He runs in the New Hampshire poll almost 5–1 better than Kennedy among Republicans who say they will vote in the Democratic primary and better than 2–1 among independents who expect to vote in the Democratic primary.

Muskie has lost some strength in recent months among the Liberals in the party. One of the spokesmen at the meeting for Sen. George McGovern at Harvard said last week Muskie isn't going to sell around here. And that is probably so. Muskie had made appearances there with mixed success. On the other hand, it must also be said that Adlai Stevenson was much more popular in 1960 in Cambridge than was John Kennedy, at least up to the point of the nominating convention.

One poll in one primary is not the entire presidential nominating process, of course. But when you talk to professional politicians in places such as Wisconsin, Virginia and Florida (Wisconsin and Florida will have presidential primaries), they tell you how strong Muskie is with centrists in the party.

The Gallup Poll in The Sunday Globe showed that Muskie slipped considerably in the Democratic poll race nationally in the last two months. Among Democrats Kennedy was favored by 29 percent and Muskie by 21 percent.

But Kennedy has a problem. His problem is that he cannot run in a primary and the race for the presidency may well be settled before the end of next year's primary. Kennedy himself believes that this is a very distinct possibility.

Part of the difficulty in straightening out the presidential primary in Massachusetts lies in the fact that the senator would like to see an uncommitted delegation go to next year's convention. Of course, they would be his slate. It is also attributed to the opposition to the binding presidential primary.

The hazard for Kennedy in this kind of situation is that if McGovern, Muskie and several other presidential candidates come into Massachusetts and run against the uncommitted slate and win, the headlines the day after the primary will read that Kennedy has been defeated in his home state.

In other words there is no halfway about presidential primaries as former Gov. John Volpe found in 1968 when he ran as favorite son and lost to a write-in vote for Gov. Nelson Rockefeller.

The only way for Kennedy to emerge as the presidential candidate is for a candidate such as Muskie to win several presidential primaries and then get knocked over in the last two, Oregon, California, so that there is no clear primary decision.

That, of course, could happen. But Muskie now appears to be very strong for the start of the presidential primaries in New Hampshire.

RENEW OUR EFFORTS FOR SENIOR CITIZENS

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 1971

Mr. BURKE of Florida. Mr. Speaker, during Senior Citizens Month, it is time for all of us in public life to direct our wholehearted efforts toward making the golden years of our citizens' lives happy and productive ones.

Since Florida leads all other States in the percentage of senior citizens, I am acutely aware of the many problems that face our elderly. Broward County, which I represent, leads all of our State's counties with an increase of 191-percent since the last census.

We all must do our share if we are to meet the growing social and economic needs of our senior citizens. This means we must do more planning and evaluation at all levels of Government, as well as by private business, welfare agencies, and retiree organizations, and this is especially important today in light of the current economic crisis and soaring cost of living.

One giant stride in the proper direction is the forthcoming White House Conference on Aging, which will begin the week of November 28 with 400 organizations taking part. This is part of the Nixon administration's efforts to help utilize the skills and knowledge of the senior population.

The conference will discuss income, nutrition, retirement roles and activity, housing, education, health, transportation, and many other topics of direct concern to the elderly.

The conference will prepare suggested recommendations from the material gathered at the national and State conferences, which will in turn provide the administration with a blueprint of problems that must be attacked and possible solutions.

The most trying problem facing our senior citizens is their not having enough money in these inflationary times to make ends meet. Their pocketbooks are the first to be picked by inflation. They are the ones that must live on a fixed income, regardless of the national economic situation. They must grapple with high rents, high food prices and soaring medical costs with little or no hope of additional income.

Hearings on H.R. 1, which deals with amendment to the Social Security Act, are now being held and the final stages of preparation is being made in committee before it comes to the House floor for a vote. In H.R. 1 are provisions for

automatic increases in social security benefits, increases in the contribution and benefit base and changes in the earnings test. I was happy to be able to cosponsor the amendment which will provide an automatic increase in the social security benefits in accordance with the rise in the cost of living.

Another amendment that I cosponsored would entitle a widow or widower, including those already on the rolls, to a benefit equal to 100 percent of the amount his or her deceased spouse would be receiving if he or she were still alive.

I firmly believe that earning limitations should be removed from those who are social security recipients. Today one can earn up to $1,680 without penalty, but it would be far more equitable to the individual and much better for our country if he was able to earn more base on his own initiative and desire to work while still collecting social security payments. The country would benefit from his experience and expertise and the taxpayer would pay less in additional welfare payments. In addition the social security recipient would benefit from a more substantial income and he would have the satisfaction of being once more the pride of being a productive citizen.

I will continue to support legislation which will in any way help our senior citizens achieve a better standard of living. Our Nation owes much to these men and women. They built America into the strongest and the most capable country in the world and they deserve much more than a backslap or a passing glance from our Government officials and its citizenry.

"U.S. TROOPS RECALL: A MATTER OF TIMING"

HON. LESLIE C. ARENDS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 1971

Mr. ARENDS. Mr. Speaker, I believe that every Member of Congress should read the article, "U.S. Troops Recall: A Matter of Timing," written by former Under Secretary of State George W. Ball, which appeared in the Washington Post this morning.

It is hardly necessary to mention Mr. Ball's credentials to evaluate the situation in the world today and the catastrophic effect of the proposed summary withdrawal at this time of our troops assigned to NATO.

Mr. Ball writes:

> . . . though I do not believe for a moment that American troops could or should be a permanent aspect of the European landscape, the present moment would seem that worst possible for a substantial and abrupt withdrawal.

With this I agree. And make no mistake that Soviet Russia continues with its expansionist policy. It continues to seek to divide and conquer and to subjugate free people. NATO has been our security wall in the west. Let us not now proceed to tear it down at the very time we need it most.

The article by former Under Secretary of State Ball follows:

EUROPE'S UNEASY SUMMER—U.S. TROOPS RECALL: A MATTER OF TIMING

(By George W. Ball)

I do not quarrel with Messrs. Mankiewicz' and Braden's requiem for "the last of the imperialists" in yesterday's Washington Post, nor do I even object to their including me among those thus celebrated. I strongly suspect that their description of the cleavage in thought between my generation and those under 30 is all too accurate—though I take no comfort from that conclusion.

My quarrel with Senator Mansfield's proposed amendment, which would abruptly direct the President to bring home half of our troops now deployed in Europe, relates primarily to methods and to timing.

NATO is an alliance of nations that perceived a common danger and organized to meet it. It can survive and function only on the basis of mutual confidence, which means that the member nations should not act peremptorily and without full consultation. NATO survived General de Gaulle's rude and arbitrary withdrawal, but only because France did not play anything like the leadership role now played by the United States, nor did Germany depend for her security on France's staying power, as she does on America's.

For our country to act so capriciously would be reckless and destructive, particularly if, as I believe to be the case, Western Europe is at a kind of climacteric—a period of change in life where its future cannot be taken for granted. It is here that the matter of timing becomes important, for, though I do not believe for a moment that American troops could or should be a permanent aspect of the European landscape, the present moment would seem the worst possible time for a substantial and abrupt withdrawal.

Between Chancellor Brandt's *Ostopolitik* and the negotiations over Britain's entry into the common market, Europe is going through an uneasy summer. The recent apparent reversal of French policy betrays this. Free of the Gaulist enchantment, France can no longer blink at the fact that West Germany is the strongest power in continental Western Europe. Thus Frenchmen are beginning to fear that, unless Britain casts her lot with Europe as a counterweight to emerging German power, the specter of German dominance will become increasingly more disturbing, particularly as the Germans begin to probe, no matter how tentatively, the potential for new arrangements with the East.

Europe at the moment is at a crossroads. If Britain joins the European Community, there is a good chance that, over the next few years, Europe can build solid foundations for a modern political structure that should assure not only cohesion and stability, but tighten Germany's Western links. But, if the effort should fail, then latent forces of fragmentation could well begin to operate and Russia would make the most of the political malaise that would ensue.

France would tend to turn in on itself as it did between the wars. A new generation of Germans would feel strong pressures to seek illusory ties with the East—a phenomenon that has occurred again and again in German history. Italy, with its political center already badly eroded and suffering the new disquiet of a Mediterranean nation no longer washed by an exclusively Western sea, might pursue a quite uncertain course—particularly if, as seems possible on the demise of its 79-year-old leader, Yugoslavia should begin to fall apart.

Thus, for these reasons alone, it seems too nervous a moment to disturb the confidence of Europe—and particularly Germany—in America's intentions and staying power. But I recognize that these arguments rest on the assumption that it is important to maintain a power balance with the Soviet Union—which many of my young friends do not share—and the further assumption that the Soviet Union would almost certainly take advantage of opportunities for expanding its influence in Western Europe if it saw the chance to do so.

To conclude that the Soviet Union is in an expansionist phase one need look no further than the recent vast extension of Soviet power in the Mediterranean and Egypt. And to the young, who would insist that the Soviet Union is no worse in its motive or actions than the United States, I would pose only one question: Why, in that case, need Russia maintain a wall in Berlin, or forcibly prevent its own citizens and those of Eastern Europe from moving to the West. Evil as it may appear to our self-flagellating youth, the "American empire," even at the height of its pre-eminence, never sought to encage the millions in its orbit. And would the young moralists of today feel no qualms if more and more of the world's population were forced within an expanding prison?

In any event, why hurry as Senator Mansfield would have us do?

Once there was a village that was saved from the constant devastation of destructive floods by the building of a dam. For a quarter of a century the village prospered; then a restless new generation asked the penetrating question: "Why do we need the dam? After all, there has not been a flood for 25 years." So they tore it down.

It is a partially inept parable, since it implies a sense of permanence with regard to our NATO deployments that I do not endorse. Yet it does underline one simple point: Change for the sake of change is no sound policy for a great nation.

U.S. TROOP WITHDRAWAL FROM WESTERN EUROPE

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 1971

Mr. WHITEHURST. Mr. Speaker, this morning I had the opportunity to read the splendid analysis by former Under Secretary of State George W. Ball on the matter of U.S. troop withdrawal from Western Europe. The column, which appeared in today's Washington Post, is as fine a refutation as I have seen to the Mansfield amendment which would utimately cut in half the number of American troops deployed in the NATO alliance in Europe.

Mr. Speaker, I commend this article to my colleagues and include it in the RECORD:

EUROPE'S UNEASY SUMMER—U.S. TROOPS RECALL: A MATTER OF TIMING

(By George W. Ball)

I do not quarrel with Messrs. Mankiewicz' and Braden's requiem for "the last of the imperialists" in yesterday's Washington Post, nor do I even object to their including me among those thus celebrated. I strongly suspect that their description of the cleavage in thought between my generation and those under 30 is all too accurate—though I take no comfort from that conclusion.

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the basis of mutual confidence, which means that the member nations should not act peremptorily and without full consultation. NATO survived General de Gaulle's rude and arbitrary withdrawal, but only because France did not play anything like the leadership role now played by the United States, nor did Germany depend for her security on France's staying power, as she does on America's.

For our country to act so capriciously would be reckless and destructive, particularly if, as I believe to be the case, Western Europe is at a kind of climacteric—a period of change in life where its future cannot be taken for granted. It is here that the matter of timing becomes important, for, though I do not believe for a moment that American troops could or should be a permanent aspect of the European landscape, the present moment would seem the worst possible time for a substantial and abrupt withdrawal.

Between Chancellor Brandt's *Ostopolitik* and the negotiations over Britain's entry into the common market, Europe is going through an uneasy summer. The recent apparent reversal of French policy betrays this. Free of the Gaullist enchantment, France can no longer blink at the fact that West Germany is the strongest power in continental Western Europe. Thus Frenchmen are beginning to fear that, unless Britain casts her lot with Europe as a counter-weight to emerging German power, the specter of German dominance will become increasingly more disturbing, particularly as the Germans begin to probe, no matter how tentatively, the potential for new arrangements with the East.

Europe at the moment is at a crossroads. If Britain joins the European Community, there is a good chance that, over the next few years, Europe can build solid foundations for a modern political structure that should assure not only cohesion and stability, but tighten Germany's Western links. But, if the effort should fail, then latent forces of fragmentation could well begin to operate and Russia would make the most of the political malaise that would ensue

France would tend to turn in on itself as it did between the wars. A new generation of Germans would feel strong pressures to seek illusory ties with the East—a phenomenon that has occurred again and again in German history. Italy, with its political center already badly eroded and suffering the new disquiet of a Mediterranean nation no longer washed by an exclusively Western sea, might pursue a quite uncertain course—particularly if, as seems possible on the demise of its 79-year old leader, Yugoslavia should begin to fall apart.

Thus, for these reasons alone, it seems to nervous a moment to disturb the confidence of Europe—and particularly Germany—in America's intentions and staying power. But I recognize that these arguments rest on the assumption that it is important to maintain a power balance with the Soviet Union—which many of my young friends do not share—and the further assumption that the Soviet Union would almost certainly take advantage of opportunities for expanding its influence in Western Europe if it saw the chance to do so.

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WILLIAM A. BULCAO, AMERICAN PATRIOT SPEAKS ON PATRIOTISM

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 1971

Mr. RARICK. Mr. Speaker, I would like to call to the attention of my colleagues here in the House a Loyalty Day speech given in Slidell, La., by a personal friend and dedicated American, Mr. William A. Bulcao of Slidell, La., VFW commander for the ninth district in Louisiana and a retired U.S. civil servant.

As a World War I combat veteran and Distinguished Service Cross winner—our Nation's second highest military decoration—Mr. Bulcao knows well the true meaning of patriotism.

The speech follows:

SPEECH BY MR. WILLIAM A. BULCAO

"On the Fourth of July we will not celebrate the freedoms which we do not have. July 26 (the Castro revolution anniversary) has more meaning for many of us than does July 4th."

Was that a statement by one of Castro's Cubans? No indeed.

These are the words of a member of the Students for a Democratic Society—an anarchist group of extremists who wish to destroy the nation.

This sentiment of disrespect for American institutions, unfortunately, is being echoed by many individuals and groups. In their eyes, America is not a democracy, but a "pig state," ruled by a tyrannical "establishment."

To them, corruption, hypocrisy and decadence are rampart in all areas of our society. They see nothing good or worthwhile. They feel that American history is pure sham. Their aim is to tear apart our system of government, claiming that this is their only hope of gaining the liberty which they "do not yet have."

Such blanket denunciations of America reveals how little these elements really understand our country and its heritage. They fail to recognize that the opportunity to speak out loudly and freely—of which they take full advantage—is quite obviously absent in the totalitarian regimes they so raucously extol. They live under the illusion that their rights and privileges should be fully granted them, while they in turn refuse to accept the duties and responsibilities of citizenship in a democracy. They recklessly flout authority, reject moral values and ignore the rights of others, while they themselves expect to be treated with dignity and respect.

Needless to say, these individuals and groups have utter disdain for those who profess loyalty to our country. Patriotism in their eyes is silly flag waving engaged in by squares. According to them, those who uphold America are either naive and misled or are simply paying homage to the "establishment" which has helped them become affluent at the expense of the downtrodden.

These extremists have no hesitancy in burning the flag, mocking our national heroes and ridiculing American history. They look on the men of Valley Forge, the courage of Lincoln and the raising of the flag at Iwo Jima as insignificant aspects of our history—completely irrelevant to today. To them, any recognition of the great moments in our history is maudlin sentimentality.

Again these extremists have betrayed their naivety and lack of understanding. They fail to realize that patriotism includes much more than participating in celebrations of important events in our Nation's past. It's real meaning "the love of and loyalty to one's country," has totally escaped them.

Actually, true patriotism is an essential ingredient in our society. It involves attitudes translated into positive action. This means many things:

1. Unswerving dedication to the principals of justice and fair play.
2. Refusing to allow bigotry and prejudice to prevail and demand human dignity.
3. Respecting the rights, lives and property of others.
4. Casting thoughtful and informed ballots for those who seek to govern us.
5. Giving time and talent to civic efforts to build better communities.
6. Supporting the efforts of law enforcement in its task of protecting our citizens and their property.
7. Upholding the right of dissent, but at the same time insisting that changes be sought within the framework of law and order, rather than in an atmosphere of violence and disruption.
8. The willingness to serve "honorably and faithfully," their country in her defense against all her enemies, external and internal.
9. Setting an example of integrity and decency for our younger generation, who need some guidance in preparation for the day they take up the duties of citizenship.

From Concord to Cambodia—for nearly two centuries—Americans—more than 42 million of them—have fought and more than one million died—not for glory, not for conquest—but as President Nixon said in his Memorial Day Proclamation of 1970 "for those concepts that bind the peoples together in nationhood and brotherhood."

In 1862 Julia Ward Howe rewrote the words to the music to what is better known as the "Battle Hymn of the Republic," and used these words in the fifth and last verse:

"In the beauty of the lilies Christ was born across the sea,

With a glory in his bosom that transfigures you and me;

As he died to make men holy, let us die to make men free!

While God is marching on."

War—any war is hell. But peace—at the price of Freedom—would be slavery and hell on earth.

More than this—to foresake the cause of freedom for which foreigners, especially the French gave their lives to help us during our war for independence and for which more than 45,000 of our countrymen have given their lives in Vietnam would be to mock their sacrifice and deny their silent plea that they shall not have died in vain.

I love my country very dearly. It owes me nothing, yet I owe it so much.

I would suggest to you today that our beloved America is still the land of the free

because it has been through its nearly two-hundred-year history, the home of the brave.

No where has this truth been more eloquently expressed than on the Confederate War Memorial in Arlington National Cemetery—across the Potomac River from our nation's capital—near Fort Myer, Virginia where I served part of military service in the Third Cavalry. Perhaps you have seen it—and have been as moved and inspired by it as I have.

Permit me to quote the inscription engraved on that memorial:

"Not for fame of reward
Not for place or for rank
Not lured by ambition
Or goaded by necessity
But in simple obedience to duty
As they understood it
These men suffered all
Sacrificed all
Dared all
And died"

Today—I am sure you will agree—this tribute can be paid appropriately—with unshamed love and gratitude to all America's honored dead by our unreserved loyalty to our great country.

In short, patriotism demands a great deal from Americans. It is in essence practicing the principles which have set our Nation on a firm course. Without a renewed commitment to the guidelines I have mentioned, our society cannot hope to withstand the assaults by those who have set out to destroy our way of life. That is why every American must be willing to do his share. I AM. ARE YOU?

TO THE FINGER LAKES WINE MUSEUM—A HEARTY TOAST

HON. JAMES F. HASTINGS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 1971

Mr. HASTINGS. Mr. Speaker, on Saturday, May 29, the Finger Lakes Wine Museum, located on Bully Hill Road, Hammondsport, N.Y., will officially open for another season.

Housed in a stone-and-wood building, hearkening back to the birth of winemaking in New York State in the year 1828, this museum is a unique showcase for the memorabilia of the wine industry in America.

It is a source of great personal pride that this museum should be located in the 38th District. Situated atop a hill, which looks down on Keuka Lake in a picture-postcard setting of valleys and vineyards, it has become a major drawing card for tourists visiting the Empire State.

Walter S. Taylor, of the Taylor wine family, established the museum some years ago, which includes the original Taylor homestead and the original winery.

Obviously a labor of love for Mr. Taylor, the museum reflects the affection he has for the winemaking industry, one of the oldest in the world.

The museum today contains displays of equipment and vineyard tools used during the early days as well as those of allied trades such as coopering, cork processing, and glass bottlemaking.

In addition, there are exhibits of champagne making during the Civil War days, articles from the prohibition era, wine presses and corking paraphernalia.

A wine and viticulture library, available to researchers and scholars, also is located on the site as well as a living grape library, offering more than 200 varieties of grapes from all over the world.

It is the goal of the museum to preserve the rich tradition of winemaking in America and to this end, its success has been outstanding. The museum has been recognized by the education department of New York State for its efforts and I earnestly recommend it as a stopping-off place for anyone visiting New York State.

Without any desire to foment or ferment a debate with my esteemed colleagues from California, where, I understand, wines of sort also are produced, I should like to include in the RECORD, a recent article from the Buffalo Courier-Express, which extolls New York State as a "vineland worthy of rank with those of the wine world":

EAT, DRINK, BE MERRY: IT'S A NEW BALL GAME FOR NEW YORK WINES

(By Robert J. Misch)

HAMMONDSPORT.—One of the questions most frequently asked by Americans seeking to learn something about their own native wines is "what about New York?" By which they mean the wine of the Eastern states: primarily, New York, Ohio, Pennsylvania and Maryland.

I wasn't sure, myself. I'd heard a lot about recent developments. I'd tasted some of the "new" wines—some good, some not so good. So I decided to find out, and headed for the Finger Lakes, the heartland of Eastern Wine production.

I visited Pleasant Valley, the 110-year-old producer of Great Western wines; Bully Hill, a relatively small newcomer to winery ranks, run by young Walter Taylor of the Taylor wine family; and Boordy Wines, originally only from Baltimore but now being made in Westfield, N.Y., under the aegis of Phil Wagner, most famous of American hybridizers. Bully Hill and Boordy are as yet quite small. Pleasant Valley is a giant.

What did I think of the wines? Well, I'll tell you. I've changed my tune!

Too many waspish wine men have been running around parroting phrases of antediluvian days: "New York wines are grapey." "The Labrusca grade is 'foxy.'" "They're too acid." All of this was true, and still is to a very limited extent, but much has been done and the proof is in the bottles.

For decades, New York and other Eastern wines were made exclusively from wild, native grapes—the concords, Catawbas, Elviras and so on. They are grapey grapes. They are high in acid. They are of the Labrusca family, whereas the wines of Europe and California are made from Vinifera grapes, more suave and understated, without the grapey smell and taste.

But now things are different. First of all, the native grapes, still much used, have been vastly improved by viticulturists. Second, some wines of California are added to many blends. They are high in sugar and low in acid, and make a good complement to acid native grapes.

Third, and most important, Eastern Wines are more and more being made of hybrids of French Vinifera and American Labrusca—the Vinifera for its better wine-making characteristics, and the Labrusca to withstand cold, eastern winters and to prevent the scourge of the vineyards, the phylloxera, a little bug that sucks the sap from Vinifera roots and kills the vine. Labrusca varieties have developed immunity to it. The result is a whole new family of Eastern wines.

I tried, at Pleasant Valley, such hybrid wines as Chelois, a dark red wine reminiscent of a red Bordeaux. It hasn't the bouquet of the Cabernet Sauvignon grape, the source of all great Clarets, but it is a good wine nonetheless, with none of that grape-juice taste.

Baco is another, a red Burgundy-type wine. The hybrid was developed near Burgundy in France, which accounts for that. Aurora is a Sauterne-type hybrid. And all are fermented "on the skins" for flavor and color—the way good wines should be.

Some straight natives are, of course, still made. I liked Dutchess the best of the whites—a Rhine wine type—but Diamond, a hybrid, is perhaps more in the tradition of a true dry white. It reminded me of some Alsatians.

Of course, Great Western champagne is Pleasant Valley's most famous product, accounting for more than half the total production. Though it's not made of the traditional Chardonnay and Pinot Noir grapes of French champagne, it is made "in the bottle," the true "champeonoise" process, and many Americans prefer its grapier taste to that of the import.

Boordy and Bully Hill's wines are as yet in small supply. They are doing fascinating things with hybrids, and the end is not yet. No one knows their grapes better than Walter Taylor and Philip Wagner. Bully Hill, in Hammondsport, makes a Chelois and a Baco too, so you can compare.

Boordy's red and white are blends of hybrids and an interesting taste test is to compare Boordy from Maryland with the new Boordy from Westfield. This is what makes wine-drinking the never-ending fun it is.

No report on New York can end without a word about Konstantin Frank. He is making wines exclusively from Vinifera grapes—French and German grapes he has been able to grow in the rigorous Eastern winters by judicious selection of vine stock and location. These wines are truly remarkable, though somewhat high-priced. It's worth while seeking them out and splurging on a few bottles. If anything can, they will convince you that New York is indeed a vineland worthy to rank with those of the wine world.

WEAPONRY, 1971

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 1971

Mr. ROBISON of New York. Mr. Speaker, the Christian Science Monitor's editorial of May 12 placed the current verbal battle over the nuclear capability of the Soviet Union in a useful and perceptive framework. It is most certainly true that we must maintain a strong defense posture with respect to the Soviet Union, as well as other potential military enemies. But irrational judgments on our part achieve nothing except the vast wastage of money, and the corresponding reaction on the part of the Soviet Union in its constant desire to catch up with the United States in armaments. It would be refreshing, indeed, if we could get through a spring here in Washington without exaggerated claims of Russian strength and manufactured rumors of their eminent superiority.

Until then, the following editorial may be food for thought for my colleagues:

[From the Christian Science Monitor, May 12, 1971]

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.

The 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 as "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 alarums 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, oversuspiciously, from American strategic programs and statements in the past."

And as for everyone 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 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.

SENATE—*Thursday, May 20, 1971*

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

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

Eternal God, shepherd of our lives and restorer of our souls, we thank Thee for the gift of life, and for another day in which to serve Thee. We thank Thee for colleagues with whom we are joined in common commitment to seek the highest good for the greatest number.

May we pursue our tasks with a sense of Thy presence. Give us wisdom not to waste time on the wrong things, not to squander energy on things that do not matter, nor to put off until tomorrow that which can be done today. Preserve us from hasty speech or cowardly silence. Give us grace to think right, to speak right, to act right, and at night to lay ourselves to sleep in fellowship with Thee and as peace with our fellow man.

O God, cleanse, renew, and guide this Nation through these troublesome days toward the brighter days of Thy kingdom.

We pray in the Master's name. Amen.

MESSAGE FROM THE HOUSE

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

H.R. 1795. An act for the relief of Leonard Alfred Brownrigg;

H.R. 1892. An act for the relief of Stephen C. Yednock;

H.R. 1931. An act for the relief of Jesus Manuel Cabral;

H.R. 2035. An act for the relief of William R. Karsteter;

H.R. 2117. An act for the relief of Mrs. Nguong Thi Tran (formerly Nguyen Thi Nguong, [redacted]);

H.R. 2246. An act for the relief of Charles C. Smith;

H.R. 3749. An act for the relief of Richard C. Walker; and

H.R. 3753. An act for the relief of Sgt. Ernie D. Bethea, U.S. Marine Corps (retired).

The message also announced that it had agreed to the following concurrent resolutions in which it requested the concurrence of the Senate:

H. Con. Res. 103, providing for the printing of the report entitled "Investigation and Hearing of Abuses in Federal Low- and Moderate-Income Housing Programs";

H. Con. Res. 120, to authorize the printing of a veterans' benefits calculator;

H. Con. Res. 206, to reprint brochure entitled "How Our Laws Are Made"; and