

foreign flagships and some 1,195,000 tons of freight, all requiring Customs clearance; be it resolved by

The Alaska State Legislature that the United States Bureau of Customs is urgently requested to establish a United States Customs Office at Kenai, Alaska.

SEEK SAFE RETURN OF POW'S

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES
Monday, May 24, 1971

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

H. RES. 319

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

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

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

Resolved, That the United States shall forthwith propose at the Paris peace talks that in return for the return of all American prisoners held in Indochina, the United States shall withdraw all its Armed Forces

from Vietnam within sixty days following the signing of the agreement: *Provided*, That the agreement shall contain guarantee by the Democratic Republic of Vietnam and the National Liberation Front of safe conduct out of Vietnam for all American prisoners and all American Armed Forces simultaneously.

SOME GOOD NEWS FROM VIETNAM

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES
Monday, May 24, 1971

Mr. SMITH of New York. Mr. Speaker, the last issue of *Commentary*, a newsletter published by the University of Vermont, has some news about the production of rice in Vietnam which, I am sure, will have a large impact on the future of that unhappy country and on the future stability of Southeast Asia. A part of this newsletter is quoted here:

REPORT FROM VIETNAM: A BUMPER CROP IN RICE

There's a bright side to American involvement in Vietnam, rarely heard, but expressed by a University of Vermont professor who has just returned from there.

Dr. Jerry J. McIntosh, associate professor of plant and soil science, said this year the Vietnamese will once more produce enough rice to meet their own needs, something they haven't done since 1964.

Next year the nation will begin to resume its traditional position as a rice exporter. And, with new approaches to old agricultural problems the Vietnamese may grow more diversified crops, thus improving their own diet as well as their nation's export position.

Two factors have been responsible for this progress: development of "miracle rice" by the International Rice Research Institute; and widespread introduction of this rice into Vietnam by both Vietnamese and American agriculturists.

Dr. McIntosh was asked to go to Vietnam as a consultant for the Federal Extension Service, and was selected because in 1969, during a sabbatical leave from the University, he worked in the Philippines for the International Rice Research Institute, and thus had gained a depth of knowledge about problems associated with increasing the food production of southeast Asia.

CONGRATULATIONS TO DEERE & CO.

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES
Monday, May 24, 1971

Mr. RAILSBACK. Mr. Speaker, in an age when it has become fashionable to knock private business for being inconsiderate and indifferent to the common consumer, I am proud to have in my district, Deere & Co., which recently offered its competitors, free access to its patents on protection of tractors against the danger of overturning.

Deere & Co. during the 1960's pioneered in the area of tractor safety and developed the first protective roll-frames for farm tractors. The protective frames were called "Roll-Gard" because tests showed that in most cases the frames would limit overturns to a 90-degree roll instead of the tractors turning completely over.

Tractor overturns are believed to be the leading cause of deaths involving farm equipment, consequently Deere & Co. wants other manufacturers of farm machinery to share with them its data on tractor upsets and protective frames, Deere & Co. should be applauded not only for its outstanding leadership in the field of farm machinery, but for its invaluable research which is constantly striving to make its products safer and better for the farmer.

SENATE—Tuesday, May 25, 1971

The Senate met at 9:30 a.m. 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:

Our Father God, we thank Thee for Thy mercies which are new every morning and for this quiet moment dedicated to the unseen and eternal. Remind us once more of the profound and holy foundations on which the Founding Fathers established this Republic. Keep us ever faithful to their high vision.

O Lord, help us through this day to labor so as to bring help to others, credit to ourselves, and honor to the Nation. When the days are long and the problems vexing, hold us by Thy grace and sustain us by Thy presence. May nothing deprive us of joy and peace. Guide us on our way by the remembrance of Him who was servant of all.

In His name we pray. Amen.

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT—ENROLLED BILL SIGNED

Under authority of the order of the Senate of May 24, 1971, the Secretary of the Senate, on May 24, 1971, received the following message from the House of Representatives:

That the Speaker had affixed his signature to the enrolled bill (H.R. 8190) making supplemental appropriations for the fiscal year ending June 30, 1971, and for other purposes.

Under authority of the order of the Senate of May 24, 1971, the President pro tempore signed the enrolled bill (H.R. 8190).

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, May 24, 1971, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

CONTINUING APPROPRIATIONS—INDEFINITE POSTPONEMENT OF JOINT RESOLUTION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 108, House Joint Resolution 633, a joint resolution making further continuing appropriations for the fiscal year 1971, and for other purposes, be indefinitely postponed.

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

PORTRAIT OF A COURAGEOUS MAN: SENATOR LEE METCALF

Mr. MANSFIELD. Mr. President, I ask unanimous consent that an editorial from the *Missoulian* of Friday, May 14, 1971, entitled "Portrait of a Courageous Man," which refers to my distinguished associate in the Senate, Senator METCALF; as well as a commentary by Fred J. Martin, editor of the *Livingston Enterprise* and *Park County News*, entitled "An Editor Eyes LEE METCALF," be inserted in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. MANSFIELD. Mr. President, I want to take this means to express my high personal opinion, my affection, and my respect for my colleague from the State of Montana, LEE METCALF, who, I believe, has one of the keenest minds in this body, who has shown rare courage indeed, who does his homework well, and who represents Montana with distinction, integrity, and understanding; and, speaking personally again, I am very proud to have LEE METCALF as a partner.

Mr. SCOTT. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I yield.

The PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SCOTT. Mr. President, last weekend, our congressional delegation spent 72 hours in Tokyo as the guests of the Japan-United States Friendship Association. We were there not at Government expense, I might add. The cochairmen of the delegation were the distinguished Senator from Montana (Mr. METCALF) and myself.

I am very proud of the fact that in our appearances before all the political parties of Japan and numerous other organizations, on television and in press conferences, there was no cleavage whatsoever between the representatives of the two political parties and that in presenting a joint view of the American situation, we presented it with due respect for the national interest involved. I would like to pay tribute to the distinguished Senator from Montana (Mr. METCALF) for the excellent way in which he discharged his responsibilities during this quite brief and rather difficult period, which involved so many meetings and so much in the way of disagreement as well as agreement. It was a very useful session. He contributed immeasurably to it.

Mr. MANSFIELD. Mr. President, I cannot begin to tell the distinguished minority leader how much I appreciate those remarks in behalf of my colleague, who is a man of keen judicial intellect, I repeat, a man of courage and integrity, and a man alongside whom I am very proud to serve in this body.

EXHIBIT 1

PORTRAIT OF A COURAGEOUS MAN

The May 10 issue of the *Nation* magazine has an article on Sen. Lee Metcalf entitled "The Invisible Senator."

Written by Robert Sherrill the *Nation's* man in Washington, the article is highly sympathetic to the man many people tend

to think of as the other guy there with Mike Mansfield.

The *Nation* is a liberal magazine and understandably would treat a liberal senator with some sympathy. Sherrill's article contains what we believe are some minor inaccuracies. For example, Metcalf is quoted as saying that the Montana Power Co. "calls the signals in the state (Montana) legislature."

Undeniably it tries, but we think undeniably it often fails, and with more frequency of late. In this past session it couldn't even stop a territorial integrity bill because, in the word of an MPC lobbyist, it didn't "have the horses." It didn't have the horses to pass the bill to let the Public Service Commission run the pollution control programs for power plants and power lines, either. It's hard to think of two bills MPC wanted less and more, respectively.

And Sherrill says Metcalf cast the lone negative vote in the 80 to 1 passage of the District of Columbia Crime Bill. We couldn't find that vote in our records, and believe Sherrill confuses it with Metcalf's lone dissent to the so-called Organized Crime Control Act, which passed the Senate 73 to 1 on Jan. 23, 1970.

But the article seems to capture an overall accurate impression of the senator. Metcalf has made many of the right enemies. He has fought special interests that SOMEBODY ought to be at least questioning but nobody else ever has.

Sherrill describes Metcalf as a hard-working man, endowed with brains and courage, a deep cynicism, an impatience for mediocrity and—on some issues—an anger toward the jellyfish who will compromise.

Metcalf notes in the article that the President's Council of Economic Advisers gripes about inflation, but is silent about proposed utility rate increases, which—in common with the universities, the foundations and the press—it doesn't even try to keep track of.

The senator says, as he often has, that the consumer should be represented in utility rate increase hearings, but notes that the only way a person can now become an expert in utility matters is to work for a utility. He wants special training programs for rate experts who, under a law he has introduced, would represent the consumer at rate increase hearings.

He also wants to come home, which adds to rumors that Metcalf won't seek re-election next year. The senator notes he's been in political activities for 30 years (except during the war), and "I think 30 years is long enough for a guy. I could live in Montana and not have to smell this stinking (Washington) air."

That would open things up . . . for whom? Chet Huntley? Good old developer-environmentalist-nice guy Huntley, who talks about "preservationists" without knowing the score and trusts the word of the Anaconda Co. when it says it will keep things clean?

Take a deep breath and stay put, senator.

AN EDITOR EYES LEE METCALF

(NOTE.—A Montana newsmagazine's view of U.S. Sen. Lee Metcalf is given by Fred J. Martin, one-time secretary to Gov. J. Hugo Aronson and a senatorial candidate himself in the 1960s. Martin is now editor of the *Livingston Enterprise* and *Park County News*. The following is a condensation of the article carried in those newspapers.)

(By Fred J. Martin)

Lee Metcalf, now serving his second term as Montana's junior senator and a four-term congressman prior to that, is at his best in intellectual combat, whether on the Senate floor or in a committee hearing. Actually, he won for himself in congressional circles the role of "the people's advocate" before Ralph Nader appeared on the Washington scene.

However, congressional hearings indicate a close liaison between Metcalf with Nader and his associates, particularly on the Montan-

an's bill to "provide for consumer, labor and small business representation on advisory committees under the coordination of Federal Recording Services, and for other purposes."

In this role Senator Metcalf has made friends by reason of his tenaciousness, his loyalty, his follow through and his thoroughness to stand up for his convictions. But, he's also made some enemies, powerful ones, who are looking to 1972 in hopes they can get the voters of Montana to retire him.

Lee doesn't have the charisma of Mike Mansfield. Perhaps his toughest job is to overcome his shyness, his quick fuse when aroused and his reluctance to get out and meet people—factors which hide his natural friendliness. He doesn't make nearly as many homefront Montana appearances as does Congressman John Melcher or Dick Shoup.

Yet, Metcalf is aware and keenly so, through his personal contacts, his mail bag and his knowledge of Montana that Montana problems are his Number One concern. However, even in Washington the senator is on a tight schedule.

From all reports, the senator and his wife, Donna, do not participate too much in the Washington congressional, diplomatic and official social whirl and there's always an open door, most every evening, for a senator and his lady. They prefer to keep the home fires burning, to work in their garden and thus also to give Lee a chance to do continuous research and reading.

As a Senator since 1960 the junior Montana senator has won his spurs and the respect of his colleagues. He's been elected again and again as acting president pro tempore by his fellow senators. He has presided over the Senate under trying circumstances and has won respect for his fairness. . . .

To go back nearly 20 years and review Metcalf's record in Congress would require a book. Just the record of the various congressional hearings and investigations he's directed or been a key participant would require analysis of a bookcase full of congressional reports. His leadership in developing, expanding and promoting Federal Aid to Education in many, many facets has won him countless awards from the National Education Association and educators not only in Montana but throughout the nation.

He has been active for wilderness, protection of rivers and streams, development of additional recreational areas, as well as for measures to promote conservation in accord with sound agricultural practices. He was an early advocate for Libby Dam and supported many other Montana projects. He has worked to bring useful and effective utilization of the Glasgow Air Base facilities.

He's ever been in the forefront of support for new technological utilization of Montana's coal reserves for the production of power in Eastern Montana. Lee has advocated support for programs which would improve the lot of Indians, give them greater opportunities and let them determine their own destiny.

But, Lee and his staff want no "specialist" designation—he and they recognize the many, many varied needs to assist Montana and all its residents. Metcalf always is in the forefront for help for the aged, fair and equitable treatment and regulation by government agencies, protection of the consumer, adequate medical care.

MR. VOLPE'S SURPRISING ACHIEVEMENTS

Mr. MANSFIELD. Mr. President, in the *Wall Street Journal* of Tuesday, May 25, 1971 is an article by Albert R. Karr, entitled, "Mr. Volpe's Surprising Achievements." I have a high regard for Mr. Volpe. We have our agreements and disagreements, our understandings and mis-

Understandings, but I think he is one of the outstanding members of the President's Cabinet. He is a man of enthusiasm, a man who likes to get the job done, likes to do a job well, but a man who always tries to see the other side and give as much consideration to it as possible.

I ask unanimous consent, therefore, that the story in the Wall Street Journal be incorporated at this point in the RECORD.

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

MR. VOLPE'S SURPRISING ACHIEVEMENTS
(By Albert R. Karr)

WASHINGTON.—Not long ago John Volpe was handing out a medal to a rather remarkable man who used to test the effects of deceleration by catapulting down a track on a rocket-powered sled. The sled would roar to 632 miles an hour, then stop within two seconds.

Looking up from the middle of a formal citation, the Transportation Secretary couldn't suppress a comparison. "Sometimes," he said, "we in the administration have to decelerate faster than that."

It was a wry admission that Mr. Volpe, a hard-driving man who wants very much to leave his mark on the nation's transportation system, can't always sell his ideas to the President or the stolid aides who surround him. But that is a common problem for the Nixon Cabinet. The significant thing about Mr. Volpe is not in his setbacks—and there have been embarrassing ones—but in some major achievements that have surprised critics and supporters alike.

Mr. Volpe, a three-time Massachusetts governor who has also been Federal Highway Administrator and Massachusetts public works commissioner, initially was regarded by critics as a narrow, roadbuilding fanatic who would try to pave over the country. Instead, he has irritated the highway lobby by killing disruptive projects and increasingly emphasizing mass transit. And in an administration more conservative and less programmatic than its predecessors, he has probably produced more new programs than any other Cabinet member, a number of them liberal measures. Among them: mass transit upgrading, a national railroad passenger system, or Amtrak, and the use of hitherto sacrosanct highway trust fund money for safety and other new programs.

This success is partly a fortuitous coincidence of Mr. Volpe's predilections and White House politics, because it is true that the Nixon administration is more open to programmatic experimentation in transportation than, say, civil rights or help for the cities. But it also reflects some personal attributes of Mr. Volpe: a deep social concern, a toughness combined with diplomacy and painstaking care in building up support. Moreover, in an administration that sometimes seems to value loyalty above all else, Mr. Volpe is the ultimate team player.

WILLING TO COMPROMISE

Intense, energetic Mr. Volpe, 62, fights hard for his programs, but the bouts are strictly intramural. Not for him are Walter Hicken's martyrdom or George Romney's public pronouncements that sometimes take him further than the administration wants to go. Mr. Volpe prefers to survive, to compromise, to chip away at opposition gradually if he has to. When the White House hits the brakes Mr. Volpe decelerates. And if it so orders, he'll champion positions he privately opposes.

That's what happened to the Secretary's plan for auto insurance reform. Central to his concept were federal standards, possibly backed up by pressure on the states to conform through a mandatory effective date or federal penalties. The White House opposed legislated standards, and Mr. Volpe abandoned the concept on the eve of testimony before a Senate committee. Instead, he suggested that Congress merely pass a resolution urging the states to act. (Responding to a Congressman's question in a House hearing later, however, Mr. Volpe said he wouldn't object to federal auto-insurance standards, as long as outright federal regulation were avoided.)

Another time, asked whether he concurred in a White House budget holddown he had strenuously resisted, Mr. Volpe replied: "Once the decision has been made, it's Transportation Department policy."

But the Secretary doesn't give up until policy is set, and his fight for Amtrak is a case in point. Key presidential aides opposed the plan, and at one point it took a heated outburst even to get Mr. Volpe past them and inside Mr. Nixon's office. Then, he says, "It took me about six minutes" to sell his argument. Later, Mr. Volpe threatened to resign if Mr. Nixon sided with the advisers who were urging him to veto the legislation.

Straightforward to the point of bluntness, Mr. Volpe meets most issues head-on. He has angered the potent highway lobby by stopping highway projects before they could rip through parks, historic areas and neighborhoods, and by warning that "excessive dependence on the auto" poses the "threat of urban suicide." He bruised egos by issuing a highway-safety "report card" that ranked states from "A" to "DD." Alabama and Illinois each got three "Ds" and the Secretary noted some "retrogression" nationwide. "Only a Republican ex-governor can get away with what he tells industry and governors to do," an associate declares.

A major caveat to the Volpe record, however, is that most of the programs he has backed so far have simply involved spending more money to attack generally accepted needs, with the support of most interest groups involved. It was apparent even before Mr. Nixon took office that an expanded mass-transit program would be tremendously popular, for example. The administration has no fondness for the highway lobby, a fact that gives Mr. Volpe some latitude; and from the lobby's point of view, Mr. Volpe's positions thus far, while annoying, haven't substantially cut the amount of money available to highway building. "It's true that we've worked with the easy ones," one department official admits.

TOUGH BATTLES AHEAD

But the crunch is coming. Mr. Nixon's revenue sharing plan challenges the highway and airport lobbies in a fundamental way, since it would allow states to spend money in those two trust funds for any transportation purpose they desire. As a key salesman for this aspect of the plan, Mr. Volpe must confront the two lobbies and their substantial power on Capitol Hill.

In his first year in the job Mr. Volpe lost an intra-administration battle for mass transit, failing to win backing for a trust fund he proposed. But if revenue sharing fails, he'll revive another plan that would also boost mass transit: a "transportation trust fund" that would allow states to divert money in the highway and airport trust funds to other transportation purposes. This plan, like revenue sharing, would certainly arouse bitter opposition.

Originally a Rockefeller backer in 1968, Mr. Volpe was persuaded by advisers to climb aboard the Nixon bandwagon while he still

had a chance. He did, and for a time was thought to be in the running for the Vice Presidency. After the election, he sought an administration job in an activist department, specifically Health, Education and Welfare or Housing and Urban Development. Ironically, the Secretaries of those two departments have found their activism repeatedly stifled by White House political considerations while Mr. Volpe, in a job he didn't particularly seek, has been relatively free to make his mark.

It's a task he gives almost undivided attention. Up most mornings by five, Mr. Volpe usually attends an early mass and heads for his office and a workout on the stationary bicycle. Then he plunges into work, rushing in and out of his office with brow furrowed. Mr. Volpe lacks a college degree, but aides say he's quick to see the significance of an issue and prefers quick, "Harry Truman" type decisions to agonizing and intellectualizing. He seldom gets away before 7, and even then usually packs along two bulging briefcases for work far into the night.

He has grown steadily into the job. More favorable to highways at first, he now says his Washington experience has made him "much more acutely aware" of the need for balanced transportation systems. In the process, he has converted skeptics. Declares a former transportation official in the Johnson administration: "If Nixon would listen to Volpe more often, he'd be ten times better off."

The Secretary seemingly views his job as the capstone to his political career and, accordingly, is particularly keen on programs that show visible accomplishment. He would like to get an air-cushion vehicle transit line going somewhere in the country, for example, but so far attempts in Los Angeles and Washington have fallen through. He would also like to leave office with a major reduction of highway deaths to his credit. So when he came across a newspaper clipping describing the inflatable air bag for automobiles two years ago, he quickly dashed off a memo directing his highway safety people to get cracking on an air bag program.

Devoutly religious, Mr. Volpe often interjects "the dear Lord" into press conferences and casual conversation. He eschews alcoholic beverages (his favorite drink is tea laced with honey), and will sometimes make a point by beginning: "If I were a gambling man—which I'm not—I'd bet that..." Nevertheless, aides say, he can be quite profane when angered, and his anger can flare quickly when an underling turns in a poor performance. Fortunately, they add, he doesn't hold grudges.

The son of Italian immigrants, Mr. Volpe worked as a hod carrier and plasterer's apprentice, eventually turning a \$500 stake into a thriving construction business. He's fond of relating how his father told him that; like other members of minority groups, he would have to climb the ladder one step at a time, and on his own. But in telling that story, Mr. Volpe usually admonishes those working for him to "remember to turn around once in a while to give a helping hand to those below you."

Translating this philosophy into action, Mr. Volpe has emphasized jobs for blacks, earning the administration some credit in a field where it generally draws criticism. There are now 20 blacks in the department's "supergrade" jobs; before Mr. Volpe there were none. And Aaron N. Henry, head of the NAACP's Mississippi unit, credits Mr. Volpe's "persuasion" for the fact that the Mississippi Highway Department, formerly all white, now is at least 30% black. Clarence Mitchell, the NAACP's Washington representative,

says he's "ahead of most people in the administration."

Some of Mr. Volpe's initiatives, however, have bogged down in the conservative, slow-moving bureaucracy he inherited. Thus, Mr. Volpe has declared that no highway or other federal transportation projects will be authorized until suitable relocation housing is built or assured. But the Federal Highway Administration, traditionally an entity unto itself, has moved so slowly on this that one civil rights expert calls its performance "terrible."

Apparently recognizing this problem, Mr. Volpe last week announced new regulations designed to enforce his relocation-housing policy. They include a requirement that federal-aid projects causing displacement have a local relocation-assistance office to help displaced persons find new homes.

CONGRESSIONAL GOOD MARKS

The Secretary gets better marks on Capitol Hill, where he often goes to do some personal lobbying instead of leaving that task to subordinates. During the final stages of the administration's effort to push the SST—a project that the Secretary personally supported—he talked at length with lawmakers, focusing on freshmen Congressmen. He's quick to adapt his tactics. Trying to sell a new highway funding approach last year, he began by working through the Republican members of a Senate committee. But when a staff man for the Democrats telephoned to suggest that Mr. Volpe deal with them as well, he dispatched a bevy of experts to the Hill within the hour.

Mr. Volpe's intense, driving approach has brought him to the point of frequent, though not major, health problems, and one hard-pressed aide, a Washington veteran, says he has "never worked for anyone so aggressive and so decision-oriented." Nevertheless, Mr. Volpe laughs easily, frequently at himself, and loves to tell homey, self-deprecating stories.

One favorite concerns the time he was stuck in a long line of airliners waiting to take off, and impatiently asked the captain to inform the tower controller that his boss, the Secretary of Transportation, was aboard. Back, Mr. Volpe says, came the controller's reply: "My regards to Mr. Volpe, but he's still 19th in line."

DEATH OF UNITED PRESS PHOTOGRAPHER ED ALLEY

Mr. MANSFIELD. Mr. President, it is with regret that I call to the attention of the Senate the fact that an old and trusted friend, Ed Alley, a former United Press photographer whom many of us have known up here, passed away on last Saturday night.

Ed was not only a photographer but also a reporter in the finest meaning of that word. I miss Ed. I have missed him for some time because he has been in difficult circumstances healthwise, but the Lord has taken him. He is gone.

I just want to say that there will be many of us here who will miss this fine gentleman, who meant so much to us in such a personal and intimate way.

May his soul rest in peace.

STATEMENT BY SENATOR SCOTT BEFORE THE SUBCOMMITTEE ON PRIVILEGES AND ELECTIONS, SENATE COMMITTEE ON RULES AND ADMINISTRATION

Mr. SCOTT. Mr. President, I ask unanimous consent to insert at this point

in the RECORD my testimony before the Senate Committee on Rules and Administration on the proposed campaign reform bill.

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

STATEMENT OF SENATOR HUGH SCOTT

Mr. Chairman, I welcome this opportunity to express my views on the election campaign reform legislation now pending before your Subcommittee on Privileges and Elections. Although I am not a member of the Subcommittee, I do sit on the full Rules and Administration Committee, and look forward to helping shape the bill we send to the Senate floor.

On March 3, 1971, I testified before the Senate Commerce Subcommittee on Communications, at which time I said:

"We ought to place a greater emphasis on floors, or guarantees, rather than on ceilings. It is absolutely essential that candidates be allowed as much access to television and radio as they wish. To impose ceilings without offsetting them with guarantees, by subsidizing or otherwise, is to ignore the real problem—access to the media, and thus the electorate."

Substantially the same sentiment was echoed in an excellent *Time* Magazine essay in its issue of May 17, 1971. Although I am not prepared, in view of the pendency of this bill, to support public funding of political campaigns, the principle of equal opportunity through guarantees still holds. Says *Time*:

"Given their eagerness to fall in on the side of the angels, there is a danger that lawmakers will take poorly considered action in preference to no action at all. Yet something needs to be done. That something should be the building of a floor rather than a ceiling. Every potential candidate is entitled to a minimum reasonable exposure of his person and ideas. Challenging incumbents clearly requires money; it is unfair to give that chance to only the rich or the allies of the rich . . . above the floor, candidates could spend any amount they deemed prudent—and could lay their hands on. The candidate with lots of money would still have an advantage, but not such an overwhelming one . . . There is no practical way to achieve absolute equity for candidates. But in a capitalist democracy, money is the great equalizer, the great leveler of odds. To limit its use in politics would limit freedom rather than protect it."

My bill, S. 956, embodies the principles of campaign flexibility and equal opportunity. However, as your Subcommittee is currently directing its attention to S. 382, an alternative bill, I shall comment on it and on its possible effects on our political system. Certainly, there is still a great deal of room for improvement, even though the Commerce Committee has made some significant strides. At the risk of appearing immodest, I am pleased that S. 382 now contains several provisions which originally appeared in my own bill. First, broadcast media as well as non-broadcast media will be required to charge their lowest unit rates when political advertising is involved. This assures that no one media's advertising is given an unfair advantage over another, and that the candidates will benefit from lower charges. Second, such preferential advertising rates will apply only during specified pre-election periods. My purpose here is to encourage candidates to use their media late in the campaign in order both to save money and shorten the campaign period. Third, broadcast license renewals will be viewed in light of the licensee's response to requests for reasonable access or amounts of broadcast time for political purposes by candidates and other interested parties. It is essential that all broadcasters be

responsive to the public interest, and even more important that the Federal Communications Commission exercise its powers to cancel broadcast licenses if there is a blatant disregard for the public interest. Broadcasters are responsible citizens, and it's about time to free them from the taints of some of the other rotten apples. Fourth, the equal time requirements will be repealed for the offices of President and Vice President both for primaries and the general election. This broader repeal ensures that even greater amounts of broadcast time will be offered free to the candidates by the stations and networks. These provisions help to meet some of the objections held by President Nixon when he vetoed last year's political broadcasting bill.

S. 382, however, still contains a number of serious defects. For example, since the bill virtually controls a candidate's campaign through separate and inflexible media spending limits, there is no recognition whatsoever that there are differences in campaigns. Certainly, if a candidate must live under any spending limits, he ought to have maximum discretion in the application of his funds. Because he would not, under this bill, I believe that broadcasters are being given the short end of the deal. On May 3, 1971, an editorial in *Broadcasting Magazine* said, "the effect would be to reduce the use of broadcast advertising far below the levels of recent campaigns, to permit generous use of print media and to impose no limits at all on expenditures for direct mail, posters, bumper stickers, travel and all the other services and materials used in political campaigns." This is not to say that I favor limits on all forms of campaign spending, because I don't. Enforcement of such a provision would be a nightmare. However, because we can't reasonably restrict all, why should we be content just to restrict some? Fears of candidates inundating the airwaves are unfounded. Sensible candidates, who must live within their campaign budgets, know that too much exposure is just as bad as not enough exposure. I don't believe that Congressional spoon-feeding is the answer. I do believe that the candidate is the best judge of what he needs and that the public is the best judge of the candidate. Congress should not make subjective value judgments in an area where clearly, the public can decide for itself. We must allow candidates to select and use the media of their choice, free from Congressional dictation. Such dictation is already shaping what appears to be an "incumbent's bill." The same editorial in *Broadcasting Magazine* cited above notes that "The formula is ideally suited to incumbents running for re-election. Broadcast advertising has become a dominant resource for out challenging the ins. That resource would be equalized by the new bill, to the disadvantage of the challengers." In other words, the real effect of this bill is to perpetuate the status quo.

Another problem in the bill is the proposed tightening of the \$5,000 limit on individual contributions. This Subcommittee is aware, I am sure, that my own bill contains limits on individual contributions—\$5,000 to one House campaign, \$10,000 to one Senate campaign, and \$15,000 to one Presidential campaign. However, I proposed these limits only because my bill contained no spending limits. I don't believe that we need have two limits. As Columbia Law Professor Albert J. Rosenthal points out in a new study of the subject, "If the maximum amount of money allowed to be spent could reasonably be expected to be obtained from small and medium-sized contributions alone, the spending limit might be regarded as an indirect (and possibly easier to uphold constitutionally) way of discouraging large contributions." The tax incentives for political contributions contained in my bill virtually assures a healthy shift away from big contributions. Addition-

ally, my bill contains limits on what a candidate could contribute to his own campaign—\$25,000 if he is a candidate for the House, \$35,000 if he is a candidate for the Senate, and \$50,000 if he is a candidate for President or Vice President. If there are to be limits on individual contributions, there must, similarly, be limits on what candidates give to themselves. It makes no sense to tell the candidate of moderate means that he cannot receive large sums of money, if we don't tell the rich candidate that he cannot finance his own way into office. In the event that this Subcommittee does not recommend repealing existing limits on individual contributions, I will urge that such limits be expanded to reflect the office under consideration, and that similar limits be placed on the candidates themselves. As Professor Rosenthal suggests:

"The level of the limitation imposed may be significant. If the evil sought to be averted is the undue influence of the large contributor upon the candidate or officeholder, a limit manifestly below the point of reasonable fear that the candidate might be improperly moved by the contribution would be difficult to justify on that basis. The present unenforced and loophole-ridden limit of \$5,000 per year for a Presidential or Congressional campaign is certainly ridiculous as applied to the former and almost as surely so even for the latter."

My earlier reservations about enforceability and constitutionality still stand, however, and I hope that due consideration will be given these two points by the Subcommittee. For I certainly fear that the imposition of strict limits on individual contributions will have the net effect of making more important the role of so-called political action groups, be they operated independently, or on behalf of either labor or business. And to restrict group action further, leads us into a maze of constitutional questions and labyrinthian escape hatches.

My strongest objection to S. 382 lies in its lack of any effective mechanism through which to report and disclose all contributions to, and expenditures by, candidates for Federal office. S. 956 relies almost exclusively on tough reporting and disclosure, through an independent Federal Elections Commission, to combat the abuses and excesses in political campaigns. Nearly forty years ago, Professor Louise Overacker wrote, "Publicity of contributions as of expenditures—pitiless, continuous, and intelligent publicity extending to (candidates and) nonparty as well as party organizations—is the least that a democracy should demand." If the campaign reform bill this Subcommittee is to recommend continues to rely on the appointed officers of Congress for monitoring authority, then we are not acting in the best interests of democracy. Employees do not control employers—they never have, they never will and they never should. In an area as sensitive as campaign spending, we must invest such authority in an entity free from outside influences. A Federal Elections Commission, appointed by the President, subject to confirmation by the Senate, is the best check we can place on over-active candidates or contributors. Once aware of "Who is giving how much to whom and when", the public can be the best judge of a candidate's qualifications for elective office. After that, arbitrary and meaningless limitations on either contributions or expenditures become secondary in importance.

In the course of my study of campaign financing, I became aware of certain practices which are, at the very least, questionable. I for one, simply do not ascribe to the old political saying that winners pay their bills and losers negotiate. To learn of the extent of such practices, especially as they relate to

Federally-regulated industries, I have asked the General Accounting Office to provide me with a detailed study of all the outstanding debts and negotiated settlements since 1962. The results of the GAO inquiry haven't yet come in, but I have learned that the agencies supposedly regulating these industries don't even keep such records. At the minimum, we must require them to do so. My interest in this practice has generated a great deal of support from some sectors, the airlines in particular. They are usually the ones left holding the bag for unsuccessful candidates. I know of one airline which is carrying outstanding debts from political candidates and parties of over \$1 million. Similarly, there are at least \$1.5 million in outstanding telephone bills. In order to curb such practices, I intend to offer an amendment requiring any candidate or political committee to negotiate a binding contract, backed up by a bond or other security, with the provider of the service. Such contracts will also be included in the candidate's filing reports. For the public's protection, for the candidate's protection and the businessman's protection, such action is essential.

Throughout the public discussion of campaign reform efforts, we have been made aware of some significant constitutional questions. We have heard from distinguished professors of law that one restriction or another in these bills will infringe upon our First Amendment rights or free speech and expression. Personally speaking, I share some of these same concerns. As elected representatives in Congress, we are sworn to uphold the Constitution. The President is held to an identical responsibility. As such, both the Executive and Legislative branches of the government must strive to operate within our Constitutional framework. The bill now being considered is, in my humble opinion, loaded with constitutional questions—limits on candidate spending, limits on media access, limits on individual contributions. None of these questions has ever been given a thorough examination by the Supreme Court, mostly because the present restrictions are so loosely drawn as to prevent anyone from ever being restricted. However, for either the Congress or the President now to assume, unilaterally, the power of judicial review, represents the height of irresponsibility. I do realize that the Congress should not pass legislation which is blatantly unconstitutional. Similarly, the Executive should not approve legislation which is blatantly unconstitutional. But in the same sense, neither Branch should avoid passing or approving constitutionally-questionable legislation simply for fear that their respective view might not be upheld by the Supreme Court. To do so would be to deny the very existence of our co-equal partner in government—the Judicial Branch. As such, we ought to pass legislation this year which does its level best to avoid the constitutional pitfalls. But we should also provide for the quickest possible court test. It would surely do our democracy no good to have election results questioned after taking office, so I would urge that consideration be given to this suggestion.

Finally, let me say that I still regard the enactment of floors, or guarantees, rather than ceilings as the best means to improve and equalize election campaigns. Greater amounts of free or reduced-rate media time and space, greater amounts of free or reduced-rate mailing privileges, greater amounts of tax incentives for political contributions—these are the things we ought to consider. The best interests of the United States are not served through restricting the political activities of either its political

candidates or its citizens. Rather, we should be encouraging the fullest participation.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. There will be morning business until 10 o'clock, with statements of each Senator being limited to 3 minutes.

CHARLES E. CAMPBELL

Mr. MANSFIELD. In talking with my distinguished friend, the junior Senator from Georgia (Mr. GAMBRELL), I was informed that his administrative assistant, Charles Campbell, formerly the administrative assistant to our late colleague Senator Richard Russell, will be leaving Washington during the first week of June.

All of us know Charlie Campbell and respect him. We have a great affection for him because we know of his sterling qualities. He was very close to Senator Richard Russell. He has been very close to Senator Russell's successor.

It is with regret that I note that his departure will take place shortly. Charles at the present time is finishing his law studies and plans to take the Georgia bar examination this summer. He will continue to work for Senator GAMBRELL in his Georgia office, but ultimately he anticipates entering the practice of law in Georgia itself.

Mr. Campbell did much to make the difficult positions of the Senators with whom he served with such distinction much easier. He was an understanding man. He knew how to run an office. He had experience. He used good common sense. I am sure that there will be many Members of the Senate who will share my regret at the leaving of this distinguished attaché.

The PRESIDENT pro tempore. Is there further morning business?

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

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

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONGRATULATIONS TO THE STUDENTS FROM MICHIGAN

Mr. BYRD of West Virginia. Mr. President, on my way to the Senate floor from my office this morning, I came upon a fine group of students from Michigan. On encountering them, I remarked to my press secretary that seldom have I seen a group move through the corridors so quietly. I came upon the group so suddenly that it surprised me. They were walking with such dignity and decorum and quietude that I wish to comment on it for the record.

I do not know from what community

in Michigan they came, and I know not from what school they came—I assume it was a high school group—but in these days of noisy demonstrations, confusion, chaos, violence, and disrespect for Government and for the rights of others, I think people should be complimented, especially our young people, when they conduct themselves with such remarkable decorum as did this group.

So I congratulate them and their parents and teachers, and I hope they will enjoy their visit to the Nation's Capital.

WAIVER OF THE GERMANENESS RULE TODAY AND TOMORROW

Mr. BYRD of West Virginia. I ask unanimous consent—in view of the fact that all time today until 4 o'clock is under control by virtue of the order previously entered—that the Pastore rule of germaneness be waived for the day.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, the Pastore rule is an excellent invention, and, when properly enforced, can save much time of the Senate. I think it should be enforced when it is needed. But when the debate is under controlled time, I do not think anything is gained by enforcing the rule, but, rather, that time is saved if it is waived. I therefore make the same unanimous-consent request for tomorrow, in view of the fact that time tomorrow, by virtue of the agreement, is also under control from 10 a.m. until 6:30 p.m.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

QUORUM CALL

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

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

The legislative clerk proceeded to call the roll.

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

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

KILLING OF POLICEMEN AND FIREMEN SHOULD BE MADE A FEDERAL OFFENSE

Mr. SCHWEIKER. Mr. President, last Friday evening two policemen were killed in the Harlem section of New York City. They were the sixth and seventh policemen killed in New York City in 1971.

At approximately 10:30 Friday night, the assailants walked up behind patrolmen Waverly M. Jones and Joseph A. Piagentini and shot them both in the back with .45-caliber weapons. Patrolman Jones, 33, was black and the father of three children. Patrolman Piagentini

was 28, white, and the father of two children. They were attached to the 32d precinct on West 135th Street.

The slaying was witnessed by at least six persons.

Since last Thursday, there have been three other attempts to attack policemen in New York City. Two of the three were attempted shootings which failed when the assailants' pistols misfired. Mr. President, these events add to the growing trend in this Nation toward killing police officers because of their official capacity. That is, we are continuing to see assaults on the lives of law enforcement officers simply because of the fact that they are policemen. The shocking boldness of the killings last Friday night in New York City which, as I have pointed out, were publicly witnessed by a half dozen persons.

On September 16, 1970, I introduced a bill to make assaults on State and local law enforcement officers, firemen, and judicial officials a Federal crime. Hearings were held on that bill, along with other similar bills, by the Senate Internal Security Subcommittee last fall.

Convincing evidence was presented at the hearings of the fact that this is a national problem and that there is substantial justification for Federal legislative action.

I redrafted my original bill to include a provision covering conspiracies to kill or injure police officers, firemen, and judicial officials. Testimony at the hearings emphasized the clear existence of conspiracies, pointing out that these killings were not simply the work of individual assailants.

These recent events in New York City tragically illustrate that the problem is no less severe now than it was last fall. It is urgent that we pick up where we left off last year and take early action on this legislation.

I urge the Senate Judiciary Committee to reconvene the hearings on my bill, S. 120, and other similar bills which have been introduced. We must provide these loyal public officials with protection against vicious and unwarranted attacks.

Mr. President, I ask unanimous consent that the article published in today's New York Times describing the recent killings be printed in the RECORD at this point.

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

KEY SUSPECT HELD IN TWO POLICE DEATHS—REPORTED SEIZED ON TIP BY NARCOTICS INFORMANT—AN EARLY BREAK AWAITED

(By Martin Arnold)

An informant in narcotics cases led the police yesterday to the capture of a man they called a "prime suspect" in the slaying of two patrolmen last Friday night.

Chief Inspector Michael Codd announced shortly before 5 P.M. that the police had "one suspect in hand" and that he had been questioned "for a number of hours." He would not say where, but it is believed that the man, who was not identified, had been taken in handcuffs to the office of District Attorney Frank S. Hogan of Manhattan.

The suspect was seized. Inspector Codd said, on information supplied by an informant who was working on a current narcotics case.

He said that the informant—described by one officer as a "busy bee in narcotics cases"—knew the suspect from the narcotics case.

Inspector Codd said that the questioning of the suspect also dealt with the shooting and wounding of two other policemen last Wednesday night, but that the man "was more oriented toward the Friday night incident." No further details were given.

On Friday night, about 10:30 o'clock, two men, both black, walked up behind Patrolmen Waverly M. Jones, a black, and Joseph A. Piagentini, a white, and shot them dead with .45-caliber weapons as they were emerging from a routine call at Colonial Park Houses, 159th Street and Harlem River Drive.

The slayings, witnessed by at least half a dozen persons, touched off an around-the-clock investigation by more than 100 detectives and hundreds of more policemen who volunteered to work on the case on their days off. It started a wave of resentment and anger within the department.

On Wednesday night Patrolmen Thomas Curry and Nicholas J. Binetti, both white, were shot and seriously wounded by automatic weapons fire at 106th Street and Riverside Drive as they caught up with a car racing the wrong way down a one-way street. Both were reported in improved condition yesterday at St. Luke's Hospital. The assailants in that case were also said to be black.

Before the capture of the suspect yesterday, the police, working out of the 32d Precinct detective squad on 135th Street, just off Eighth Avenue, had questioned about 60 persons in the case—most of them gathered in from information fed to the Police Department by the residents of Harlem.

As the information came into the precinct on special telephones set up by the police, teams of detectives—four to eight to a team—were sent out to investigate.

"We don't routinely send out that many men, but we're dealing with people who play for keeps," one officer said.

Several hours before the police announcement of "a prime suspect" the Police Department had a brief tremor of excitement when two armed blacks were arrested, shortly before 1 P.M., at the New York Daily News Building, 220 East 42d Street. Both were carrying loaded .38-caliber pistols.

TWO BOOKED ON GUN CHARGE

It turned out later that the two men, said by the police to be members of the Black Panther party, had a business appointment at The Daily News to purchase printing equipment. The police booked them for possession of handguns and said that there was nothing to indicate they were in any way connected with the police shootings in the city.

They were identified as Andrew Eugene Austin, 24, of Oakland, Calif., head of national distribution for the Black Panther party newspaper, and Ellis White, Jr., of the San Francisco area.

News of their arrest added to the general air of fear and anger that seemed to prevail in many sections of the city yesterday because of the two shooting incidents.

There was talk, for instance, that black revolutionaries had decided on a campaign of shooting policemen—despite statements by Police Commissioner Patrick V. Murphy that there was no hard evidence that any organized group had taken part in either Wednesday night's or Friday night's shootings.

SECOND MESSAGE RECEIVED

Indeed, the Commissioner seemed to feel that the "organized" theory was simply not

true. Still, Radio Station WLIB in Harlem received yesterday a second black "Revolutionary Justice" letter praising the killing of the two policemen.

It was similar to a message received by the radio station and The New York Times last Friday. Each letter, referring to the wounding of Patrolmen Curry and Binetti, was accompanied by a .45-caliber bullet and a stolen license plate from the automobile that the assailants used.

The letters were signed by a group calling itself the "Righteous Brothers of the Black Liberation Army," which took responsibility for the two shootings.

As of last night, there was no indication that the "prime suspect" was involved with any black revolutionary movement. Nor was there any belief in Harlem that such was the case.

Many Harlem residents seemed to think that the two killings were not connected, and more than a few believed, from the start, that they might have involved narcotics users.

BREAK IN CASE EXPECTED

Through the day yesterday Police Commissioner Murphy appeared to be confident that the case would be broken within a few days. At one point, before the suspect was actually brought in for questioning, he said that the department had made "significant progress."

The Commissioner spent a large part of the day and evening touring various police precincts in an attempt to show the men "that at Headquarters we care."

He described the mood in the precincts as "one of terrible sadness" rather than anger, and when it was suggested to him that the killings might be an "invitation to overreaction" on the part of the police, he said, "Perhaps I have a higher opinion of our own men to stand the pressure."

At one point in the afternoon, at the 32d Precinct, the Commissioner held a meeting with precinct delegates to the Patrolmen's Benevolent Association, at which he discussed his program to get the city to pay for twice-a-week car washings for radio patrol cars. He also discussed with the men the need for new and better equipment.

ANGER PERSISTS IN RANKS

"In view of the tragedy this may seem like an awful petty thing to be discussing," he said. "But it's important—little things like neatness, car washings, have a lot to do with morale."

Despite the Commissioner's efforts, however, there was a good deal of anger in the precinct houses. At the 84th Precinct house at 72 Poplar Street, Brooklyn for instance, there was said to be loud arguing Saturday night over whether policemen should or should not carry shotguns for protection. The P.B.A. had advocated the use of shotguns, but Commissioner Murphy's response was a flat "no."

There is considerable discussion of new ideas to protect policemen who are on street duty. The chief fear that any policeman has is: What's behind the door?

Yesterday in the 32d Precinct, for example, radio patrol cars were tailed by unmarked police cars manned by plainclothes men. The backup teams were prepared to support the uniformed men in the patrol car in the event of a dangerous incident.

Similar methods are being tried in other danger areas of the city. "Such areas as the 32d are overburdened with street crime and organized crime—with gambling and narcotics," the Commissioner said.

REWARDS OFFERED

Meanwhile the New York Conservative party offered a \$2,000 reward for information

leading to the arrest and conviction of those involved in Friday night's slaying and increased from \$1,000 to \$2,500 its reward for information on the wounding of the two policemen last Wednesday night.

At the McCall Funeral Home, 984 Prospect Avenue, the Bronx several hundred people filed past the coffin of Patrolman Waverly Jones, 33, who was a father of three children. Hundreds more paid their respects at the Boyd Funeral Home in Deer Park, L. I., to Patrolman White, 28, the father of two.

They were the sixth and seventh policemen to be killed violently in the line of duty this year.

QUORUM CALL

The PRESIDENT pro tempore. Is there further morning business?

Mr. SCHWEIKER. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND CONSIDERATION OF UNFINISHED BUSINESS ON JUNE 1, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Tuesday, June 1, immediately following the 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, and that upon the conclusion of the period for the transaction of routine morning business, the unfinished business be laid before the Senate.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR ADJOURNMENT FROM TUESDAY, UNTIL 10 A.M. ON WEDNESDAY, JUNE 2, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business on Tuesday, June 1, it stand in adjournment until 10 a.m., Wednesday, June 2, 1971.

The President pro tempore. Is there objection? The Chair hears none, and it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT ON STRATEGIC AND CRITICAL MATERIALS STOCKPILING PROGRAM

A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting, pursuant to law, a report on the strategic and critical materials stockpiling program, for the six-month pe-

riod ending December 31, 1970 (with an accompanying report); to the Committee on Armed Services.

REPORT OF THE U.S. SOLDIERS' HOME

A letter from the Secretary of the Army, transmitting, pursuant to law, a report of the U.S. Soldiers' Home, for fiscal year 1970 (with accompanying papers); to the Committee on Armed Services.

REPORT OF EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

A letter from the Chairman, Equal Employment Opportunity Commission, transmitting, pursuant to law, a report of that Commission, for the fiscal year ending June 30, 1970 (with an accompanying report); to the Committee on the Judiciary.

AN OVERVIEW OF THE ADMINISTRATION'S HEALTH CARE STRATEGY

A letter from the Secretary of Health, Education, and Welfare submitting a document entitled "Towards a Comprehensive Health Policy for the 1970's," prepared by the Department of Health, Education, and Welfare as a comprehensive overview of the administration's health-care strategy (with accompanying report); to the Committee on Labor and Public Welfare.

REPORT ON FINAL DETERMINATION RELATING TO CLAIM OF CERTAIN INDIANS

A letter from the Chairman, Indian Claims Commission, reporting, pursuant to law, on its final determination with respect to Docket No. 281, The Creek Nation East of the Mississippi, plaintiff, v. The United States of America, defendant (with an accompanying paper); to the Committee on Appropriations.

PETITIONS AND A MEMORIAL

Petitions and a memorial were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A memorial of the Legislature of the State of Florida; to the Committee on Aeronautical and Space Sciences:

"HOUSE MEMORIAL No. 780

"A memorial to the Congress of the United States to request that Kennedy Space Center be the site for construction of the space shuttle

"Whereas, the space shuttle, a reusable low cost rocket for ferrying men and materials back and forth between earth and space stations, is the single most essential piece of hardware for the United States space exploration program, and

"Whereas, Kennedy Space Center in Florida is the most modern and complete spaceport in the world, and

"Whereas, some \$600,000,000 worth of facilities needed for the space shuttle program are already available at Kennedy Space Center, and

"Whereas, a 10,000 foot runway for landing and returning the booster and orbit stage is in existence at Kennedy Space Center, and

"Whereas, almost \$1,000,000,000 has already been invested in the space program at Kennedy Space Center, and

"Whereas, a highly skilled team of 18,000 personnel, specializing in operations, maintenance and assembly, is already at Kennedy Space Center, and

"Whereas, the launch of space shuttles over water adds immeasurably to the safety of the system, and launches from Kennedy Space Center are made over water, and

"Whereas, Kennedy Space Center offers a unique aggregate of facilities, not available at any other possible sites, for development

and operational flights of the space shuttle system at minimum cost to the United States taxpayers, and

"Whereas, the House Science and Astronautics Committee in its report on the fiscal 1971 budget stated that "maximum use should be made of existing facilities to support the space shuttle program" and that "The extensive launch and checkout capabilities at the Kennedy Space Center . . . should receive early and most careful consideration," and

"Whereas, the Honorable Reubin O'D. Askew, Governor of the State of Florida, has received the approval of governors of many of the Southern states in his efforts to locate the space shuttle at Kennedy Space Center in Florida, now, therefore,

"Be It Resolved by the Legislature of the State of Florida:

"That the Congress of the United States is hereby requested to provide that the National Aeronautics and Space Administration designate Kennedy Space Center as the operational base for the space shuttle.

"Be it further resolved that copies of this memorial be forwarded to the President of the United States, the Director of the National Aeronautics and Space Administration, the President of the United States Senate, the Speaker of the United States House of Representatives, each member of the Appropriations and Aeronautical and Space Sciences Committees of the United States Senate and the Appropriations and Science and Astronautics Committees of the United States House of Representatives, and each member of the Florida delegation to the United States Congress."

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

"SENATE JOINT RESOLUTION No. 1

"Relative to the use of surplus unsubsidized agricultural food products

"Whereas, The California Legislature recognizes the need for nutritionally adequate diets among low-income persons in the state, national and international areas of federal assistance programs; and

"Whereas, There is a surplus of certain unsubsidized crops in California and other states of the United States which has depressed farm income and caused economic hardship for those persons employed on all levels in the growing, harvesting and processing of these agricultural products, such as the heavy surplus in prunes available in California; and

"Whereas, These unsubsidized crops could serve the twofold purpose of helping our farm families and farm workers economically and in combating nutritional deficiencies if used by the federal government for foreign disaster relief, to combat hunger among low-income persons, for use in the school lunch program and for use in the supplemental food program; and

"Whereas, The California Legislature recognizes that the effective effort needed to serve this twofold purpose requires immediate action by the federal government, together with cooperation by individual state and foreign agencies to facilitate and expedite the action taken by the Government of the United States; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully requests the President and Congress of the United States to take whatever immediate action is necessary to allow the purchase and distribution of unsubsidized surplus farm products for the dual purpose of helping our farm economy and alleviating nutritional deficiencies at home and abroad; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States, to the Gov-

ernor of California, to the Secretary of Agriculture, to the Secretary of Health, Education and Welfare, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution of the Legislature of the State of California; to the Committee on Appropriations:

"SENATE JOINT RESOLUTION No. 37

"Relative to endowment for the arts

"Whereas, Congress is considering the appropriation for the National Endowment for the Arts; and

"Whereas, It is incumbent upon this nation to support the arts for the benefit of our society by providing the means for artists to best use their creative talents; and

"Whereas, A strong and productive community of artists provides inspiration and fulfillment to the society as a whole; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to support full funding for the appropriation for the National Endowment for the Arts; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution of the Legislature of the State of California; to the Committee on Commerce:

"SENATE JOINT RESOLUTION No. 10

"Relative to the control of marine traffic

"Whereas, The number of oil spills in our ocean and inland waterways has increased at an alarming rate; and

"Whereas, Substantial damage to marine life, waterfowl and the scenic beauty of beaches and seashores has resulted therefrom; and

"Whereas, The recent collision of two oil tankers at the entrance to San Francisco Bay reaffirms the long-overdue need for a total system of marine traffic control in the ports and harbors of our state; and

"Whereas, There is a need for the enactment of federal laws which would permit the establishment of a uniform system of marine traffic control and other safety procedures under the jurisdiction and direction of the United States Coast Guard and authorize the Coast Guard to promulgate and enforce any regulations deemed necessary to insure the safe movement of ships and safe storage and handling of dangerous cargo, which regulations may include mandatory radar control and unqualified authority to limit or halt the movement of any and all vessels where weather or other conditions so demand; and

"Whereas, Such a uniform set of regulations controlling marine traffic is one of the best and quickest ways to achieve the safe movement of vessels in close waters; now, therefore, be it

"Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation such as described in this resolution to protect our ports and harbors from the threat of future ship collisions and other accidents which might lead to further disastrous oil spills; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Rep-

resentative from California in the Congress of the United States."

A joint memorial of the Legislature of the State of Washington; to the Committee on Finance:

"SENATE JOINT MEMORIAL No. 5

"To the Honorable Richard M. Nixon, President of the United States, and to the Senate and House of Representatives of the United States of America, in Congress assembled:

"We, your Memorialists, the Senate and House of Representatives of the State of Washington, in legislative session assembled, respectfully represent and petition as follows:

"Whereas, The several states of this nation are increasingly financially burdened by the amount of moneys necessary to finance welfare programs; and

"Whereas, The recent United States Supreme Court decision which prohibits the several states from imposing a residency requirement as a condition for an individual's receipt of welfare payments has further strained the financial resources of the several states by increasing the number of recipients eligible for welfare payments; and

"Whereas, With the judicial prohibition of the previously recited residency requirements, there is no effective restraint against the interstate migration of welfare recipients into the states in which welfare benefits are larger; and

"Whereas, The current state of the nation's economy, and particularly the economy of Washington state, has made this problem increasingly serious;

"Now, therefore, Your Memorialists respectfully pray that the Congress enact legislation by which the federal government would assume the entire obligation to fund those existing welfare programs to which the federal government currently contributes a portion of the necessary funds.

"Be it resolved, That copies of this memorial be immediately transmitted to the Honorable Richard M. Nixon, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

A petition from Elroy Lewis-126-532, Lorton, Va., requesting impeachment proceedings against a U.S. district judge; to the Committee on the Judiciary.

A resolution of the City Council of the City of San Luis Obispo, Calif., endorsing the Federal revenue-sharing proposal; to the Committee on Finance.

MEMORIAL PRESENTED

Mr. CHILES. Mr. President, the State of Florida's continuing interest in seeing that the Kennedy Space Center be selected as the site for construction of the space shuttle is typified by House Memorial No. 780, Regular Session 1971, which I received the other day from the Florida Legislature. So that the Congress can have an indicator of how interested the State of Florida is in this worthwhile project, I ask unanimous consent that the memorial be printed in full, following my remarks.

The memorial, which was referred to the Committee on Aeronautical and Space Sciences, reads as follows:

HOUSE MEMORIAL No. 780

A memorial to the Congress of the United States to request that Kennedy Space Center be the site for construction of the space shuttle

Whereas, the space shuttle, a reusable low cost rocket for ferrying men and materials back and forth between earth and space stations, is the single most essential piece of

hardware for the United States space exploration program, and

Whereas, Kennedy Space Center in Florida is the most modern and complete spaceport in the world, and

Whereas, some \$600,000,000 worth of facilities needed for the space shuttle program are already available at Kennedy Space Center, and

Whereas, a 10,000 foot runway for landing and returning the booster and orbit stage is in existence at Kennedy Space Center, and

Whereas, almost \$1,000,000,000 has already been invested in the space program at Kennedy Space Center, and

Whereas, a highly skilled team of 18,000 personnel, specializing in operations, maintenance and assembly, is already at Kennedy Space Center, and

Whereas, the launch of space shuttles over water adds immeasurably to the safety of the system, and launches from Kennedy Space Center are made over water, and

Whereas, Kennedy Space Center offers a unique aggregate of facilities, not available at any other possible sites, for development and operational flights of the space shuttle system at minimum cost to the United States taxpayers, and

Whereas, the House Science and Astronautics Committee in its report on the fiscal 1971 budget stated that "maximum use should be made of existing facilities to support the space shuttle program" and that "The extensive launch and checkout capabilities at the Kennedy Space Center . . . should receive early and most careful consideration," and

Whereas, the Honorable Reubin O'D. Askew, Governor of the State of Florida, has received the approval of governors of many of the Southern states in his efforts to locate the space shuttle at Kennedy Space Center in Florida, Now, therefore,

Be it Resolved by the Legislature of the State of Florida:

That the Congress of the United States is hereby requested to provide that the National Aeronautics and Space Administration designate Kennedy Space Center as the operational base for the space shuttle.

Be it further resolved that copies of this memorial be forwarded to the President of the United States, the Director of the National Aeronautics and Space Administration, the President of the United States Senate, the Speaker of the United States House of Representatives, each member of the Appropriations and Aeronautical and Space Sciences Committees of the United States Senate and the Appropriations and Science and Astronautics Committees of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

REPORT OF A COMMITTEE

By Mr. PASTORE, from the Committee on Commerce, without amendment:

S. 485. A bill to amend the Communications Act of 1934 to provide that certain aliens admitted to the United States for permanent residence shall be eligible to operate amateur radio stations in the United States and to hold licenses for their stations (Rept. No. 92-133).

REPORT ENTITLED "THE FEDERAL JUDICIAL SYSTEM" (S. REPT. NO. 92-134)

Mr. BURDICK, from the Committee on the Judiciary, pursuant to Senate Resolution 340, 91st Congress, second session, submitted a report entitled "The Federal Judicial System," which was ordered to be printed.

REPORT ENTITLED "SEPARATION OF POWERS"—REPORT OF A COMMITTEE (S. REPT. NO. 92-135)

Mr. ERVIN, Mr. President, on behalf of the Committee on the Judiciary, I submit the annual report of the Subcommittee on Separation of Powers pursuant to Senate Resolution 52, 91st Congress, first session.

The PRESIDING OFFICER (Mr. DOMINICK). The report will be received and printed.

EXECUTIVE REPORT OF A COMMITTEE

As in executive session, the following favorable report of a nomination was submitted:

By Mr. AIKEN, from the Committee on Foreign Relations:

W. Tapley Bennett, Jr., of Georgia, a Foreign Service officer of the class of career minister, to be Deputy Representative of the United States of America in the Security Council of the United Nations, with the rank of Ambassador.

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. BYRD of West Virginia:

S. 1937. A bill to provide that disabled individuals entitled to disability insurance benefits under section 223 of the Social Security Act, and individuals in the corresponding categories under the Railroad Retirement Act of 1937, shall be eligible for health insurance benefits under title XVIII of the Social Security Act without regard to their age. Referred to the Committee on Finance.

By Mr. EAGLETON:

S. 1938. A bill to amend certain provisions of subtitle II of title 28, District of Columbia Code, relating to interest and usury. Referred to the Committee on the District of Columbia.

By Mr. ALLOTT (for himself and Mr. DOMINICK):

S. 1939. A bill for the relief of the South-west Metropolitan Water and Sanitation District, Colorado. Referred to the Committee on the Judiciary.

By Mr. DOLE:

S. 1940. A bill to amend part II of the Interstate Commerce Act in order to completely exempt certain vehicles used in agriculture from the provisions thereof. Referred to the Committee on Commerce.

By Mr. EASTLAND:

S. 1941. A bill to amend chapter 84 of title 18 of the United States Code relating to the assaulting, injuring, or killing of police officers and firemen, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. PEARSON:

S. 1942. A bill to amend the Federal Aviation Act of 1958 and the Interstate Commerce Act in order to authorize free or reduced rate transportation for persons who are 65 years of age or older. Referred to the Committee on Commerce.

By Mr. DOLE:

S. 1943. A bill to provide for the mandatory inspection of rabbits slaughtered for human food, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. MUSKIE:

S. 1944. A bill to amend the Foreign Assistance Act of 1961 to provide for international drug control assistance. Referred to the Committee on Foreign Relations.

By Mr. MUSKIE (for himself and Mr. HARRIS):

S. 1945. A bill to improve the intergovernmental coordination of programs to control drug abuse within the United States. Referred to the Committee on Government Operations; and, by unanimous consent, to the Committee on Labor and Public Welfare, if and when reported.

By Mr. HUMPHREY:

S. 1946. A bill to authorize the Attorney General to provide a group life insurance program for State and local government law enforcement and firefighting officers. Referred to the Committee on the Judiciary.

By Mr. MUSKIE:

S. 1947. A bill to prohibit trading in Irish potato futures on commodity exchanges. Referred to the Committee on Agriculture and Forestry.

By Mr. RIBICOFF:

S. 1948. A bill for the relief of Luis A. Romero and Carmen Romero. Referred to the Committee on the Judiciary.

By Mr. YOUNG:

S. 1949. A bill for the relief of Ronald Wayne Springer, his wife, Rita Lorraine Springer, and their children, Ramona Lee Springer, Richard Allan Springer, and Robert Ronald Springer. Referred to the Committee on the Judiciary.

By Mr. STEVENSON:

S. 1950. A bill for the relief of Mrs. Josefita Esther Worley. Referred to the Committee on the Judiciary.

By Mr. PROUTY:

S.J. Res. 104. A joint resolution authorizing the President to proclaim Thursday, November 11, 1971, as "World War I Veterans Day". Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE:

S. 1940. A bill to amend part II of the Interstate Commerce Act in order to completely exempt certain vehicles used in agriculture from the provisions thereof. Referred to the Committee on Commerce.

Mr. DOLE. Mr. President, the farmers of this Nation are threatened with losing a major segment of their labor force.

It was announced last year that the Federal Highway Administration would enforce regulations prohibiting the interstate operation of farm trucks by persons under 21 years of age. A good deal of the day-to-day work on a farm is accomplished by hauling something in a truck, whether it be grain, milk, or supplies, and young men and women under 21 years of age are utilized as drivers. Depending on State regulations, boys and girls are taught to drive at a young age, and are helpful around the farm because they are alert and able to operate these vehicles. Older men, over 21, are just not readily available, and the wages a farmer can pay them are far less than they can earn for fewer hours in the urban areas.

The use of these young drivers is especially needed during harvest periods. In my home State of Kansas, for example, and in the surrounding States, we are now preparing to harvest our winter wheat crop. The combines will enter the fields any day now, and the trucks that haul the grain from the combines in the fields to the storage bins on the farm or to the local grain elevator will most likely be driven by the farmer's son or

daughter, or another teenager hired for the purpose.

The farmers of this Nation, whether they are hauling wheat, corn, cattle, insecticides, fertilizer, or whatever use they have for a truck, depend on these young people to drive for them. To forbid a teenager to drive farm trucks by Federal law would cause undue hardship to the agricultural community.

The bill I introduce today would provide exemption of these young men and women from the proposed regulations. It would allow them to operate farm vehicles of a gross weight up to 50,000 pounds within a 200-mile radius of the farm.

Another provision of my bill would give comparable exemption to custom grain harvesters. Many farmers and other individuals through the years have developed specialized custom farm services when considerable investment is required for equipment.

When a wheat field is ripe and ready for harvest, the farmer wants the crop harvested as quickly as possible to avoid any storm damage. Summer rain and hail storms can destroy wheat fields in 10 minutes. The wheat farmer, therefore, hires a custom harvest crew that will harvest his field using many combines and trucks. An individual farmer could not afford to own the five or six combines and trucks he would need.

The combination of capital investment and urgency has brought about custom wheat harvesting. Some custom wheat harvesters are individual farmers who have invested in several combines and trucks, and supplement their own farm income by harvesting the crop of their neighbors. Other farmers and individuals own and operate fleets of combines and trucks worth hundreds of thousands of dollars that form up in Texas and Oklahoma in late May, and harvest wheat all summer for farmers from Texas to North Dakota and on into Canada.

In the High Plains area of Kansas, these custom operators harvest about 50 percent of the wheat crop. These custom operators also hire our young high school and college youths to drive their combines and trucks. Many young men are able to finance their college education by working the wheat harvest in the summer. It is good work and pays young men well who are willing to work hard. It is difficult to find men, 21 or older, to spend the summer at such a job.

Similar custom services are provided for baling hay, forage harvesting, and many other high capital investment, specialized work for many commodities.

It is important that we provide our farmers the assurance that they will be permitted to continue hiring these young people to drive their vehicles, whether for an individual farm or for a large custom service operator. That is the purpose of this legislation.

By Mr. EASTLAND:

S. 1941. A bill to amend chapter 84 of title 18 of the United States Code relating to the assaulting, injuring, or killing of police officers and firemen, and for

other purposes. Referred to the Committee on the Judiciary.

Mr. EASTLAND. Mr. President, I come before the Senate today with a great sense of urgency. I am introducing a bill which would make it a Federal crime to assault a police officer or fireman.

The brutal and violent deaths of two New York policemen Friday night serve only to spotlight a gruesome, deadly war on police which is spreading across our Nation. We must take immediate and decisive steps to meet this challenge to our police, our citizens, and to all America.

The bill which I propose would combat this wave of lawlessness which now chips away at the very foundations of government and threatens the life of this Nation. For the first time, I am afraid for my country—and I believe millions of Americans fearfully echo this sentiment. The time to deliberate is past—the time to act is at hand.

Organized terrorism has grown over the past several years until now it daily poses a serious and constant threat to the lives of our police officers and firemen. The statistics and events of the past few years sadly bear out the statement that radical groups have declared war on police.

In Chicago, seven policemen were slain in 1970, and 750 police officers were injured by assaults. In Los Angeles, more than 2 dozen guerrilla assaults on police have occurred, involving shootouts, ambushes, and sniping.

The New York incidents—three attacks on police in 3 days—were viciously climaxed Friday night in the slaying of two policemen. Called to a routine assigned to assist a sick person, these officers were gunned down from behind. On the previous night, two other policemen were victims of a machine gun attack which left them seriously injured.

New York Police Commissioner Patrick V. Murphy characterized the attacks as "the work of madmen," and Policeman Edward J. Kiernan insists that police are targets of organized violence.

Mr. President, I am in complete agreement with both statements.

As we criss-cross the Nation, the story is endless, but remarkably similar.

In Detroit, assaults against policemen have increased 68 percent. California murders of policemen have doubled. A Sacramento policeman was shot to death by a sniper who used a military rifle to fire on his patrol car. A police station in San Francisco was bombed, killing an officer and wounding eight others. In West Philadelphia, a police sergeant sat quietly at his desk when a gunman walked in and pumped five bullet holes in his body.

In Cairo, Ill., snipers fired at the car of the police chief six different times. In that same city, several men dressed in Army fatigue uniforms attacked the police station three times in 6 hours, and, during the final assault, the attack force fired hundreds of rounds into the station.

What I am saying, Mr. President, is that these attacks are occurring in every section of the United States with an ever-increasing and ever-deadly frequency. As

I said when the Internal Security Subcommittee opened hearings on this subject last October:

An organized "war upon the police" threatens to undermine law and order in the United States. These deliberate attacks are too widespread, the incidents too numerous, the tactics too similar to suggest isolated acts of violence.

The message is clear. Our police are at war. A force, threatening to overthrow this Nation from within, is attacking at this very hour. America stands on the threshold of a serious battle with an enemy unknown in the history of this country.

In the strongest terms, I urge the Senate to place in the hands of the forces of order a weapon which will enable them to deal with these assaults. This weapon is the law.

We must place the full force of the Federal Government behind the brave and dedicated policeman and fireman who seeks to meet and overcome this deadly challenge to his life and to the life of this Nation.

By Mr. PEARSON:

S. 1942. A bill to amend the Federal Aviation Act of 1958 and the Interstate Commerce Act in order to authorize free or reduced-rate transportation for persons who are 65 years of age or older. Referred to the Committee on Commerce.

REDUCED FARES FOR AGING AMERICANS

Mr. PEARSON. Mr. President, I introduce today legislation to permit aging Americans to travel at reduced fares on commercial air, rail, and bus lines.

At a time when most of our major airlines are flying with half empty planes and buses and trains are practically deserted, I think it is in the national interest to offer discount fares for those thousands of aging persons who would like to travel, to visit family and friends, but because of increasing transportation costs simply cannot. This legislation, in my judgment, will be beneficial both for our aging citizens and for the transportation industry.

Our Nation's railroads and buslines, to their credit, have offered reduced fares for more than three decades, to the blind and handicapped and their attendants. Our commercial airlines have offered promotional fares to young people, to servicemen, and to other groups, allowing them to fly at one-third or one-half the regular fare. Yet, none of our major airlines, though their multimillion-dollar jetliners are flying with load factors of less than 50 percent, has seen fit to offer discount fares to elderly passengers. Canadian airlines, by contrast, offer anyone over 65 the opportunity to fly for half fare on a space available basis.

Mr. President, only 1 percent of those Americans over age 65 crossed a State line last year. Only 1 airline passenger in 20, moreover, is over age 65. Present fares—and they have been increased several times recently—discriminate more against persons over the age of 65 whose income is limited than they do against people of any other age group. Such dis-

crimination, in my judgment, warrants legislation to achieve a better balance of supply and demand, and to remove the economic barrier which keeps elderly people from family and friends.

Finally, Mr. President, I wish to make clear that this legislation is, in accordance with existing law, permissive. It would allow carriers to decide for themselves the amount and the manner in which any reduced fare would be offered. It is my hope that our commercial carriers would provide discounts in the range of 50 percent in order to recognize the full potential of this untapped passenger market.

I ask unanimous consent that this bill be printed in the RECORD at the conclusion of my remarks. I urge the appropriate committees to give this measure early consideration.

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

S. 1942

A bill to amend the Federal Aviation Act of 1958 and the Interstate Commerce Act in order to authorize free or reduced rate transportation for persons who are sixty-five years of age or older

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 403(b) of the Federal Aviation Act of 1958 is amended by inserting after "persons in connection with such accident;" the following: "persons who are sixty-five years of age or older;"

SEC. 2. Section 22 of the Interstate Commerce Act is amended by inserting after "or commutation passenger tickets;" the following: "nothing in this part shall be construed to prohibit the transportation of persons who are sixty-five years of age or older free or at reduced rates;"

By Mr. DOLE:

S. 1943. A bill to provide for the mandatory inspection of rabbits slaughtered for human food, and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. DOLE. Mr. President, rural America is facing economic crisis. Even with our government farm programs in 1969, 147,000 in farm population was lost, according to Department of Agriculture statistics. These people are leaving the farm for one reason—they cannot make a living wage with the increasing cost of farming and the declining prices they receive for their production.

My State of Kansas is no exception. Kansas economy is based on agriculture. Grain production and livestock are the two biggest industries in the State. Several generations have succeeded in farming the same lands. These people do not want to leave the farm community and migrate to the urban centers and their concentration of problems.

This economic concern is exhibited in the efforts of a northwest Kansas community in and around Hill City, Graham County, Kans.

Several years ago citizens of that community banded together with citizens of several counties in that area. There were: Community leaders; farmers; bankers; and low income laborers—all joined to-

gether to create an economic development group to try to improve their future.

The result of this alliance was the formation and inauguration of Kansas Food Products, Inc., a plant to slaughter and process rabbits. The farmers of the surrounding area produce the domestic rabbits—sell them to the plant—which slaughters and processes them. Under contract the plant produces rabbits for domestic use, and contracts to sell other portions of the rabbit carcass to research facilities. This plant has been operating for over a year and is expanding rapidly. It has greatly enhanced the community it serves, provides employment for some citizens and another crop for farmers to produce to improve their income.

The management chose wisely to build the plant to USDA meat inspection specifications, so the consumer would be assured of wholesome meat. Their USDA inspection is strictly a voluntary action, in order to protect the consumer, and this plant pays over \$15,000 per year for this inspection service. Plants slaughtering other meat animals or poultry receive this inspection service at no charge as a means to fulfill the Wholesome Meat and Poultry Acts.

Today I introduce a bill that would provide for the same USDA inspection service to slaughtering and processing plants for rabbits that are afforded to processors of other animals prepared for consumer food. As a cosponsor of the Wholesome Meat and Poultry Acts, I feel it was the intention of these acts to provide such service; and it is with this purpose that I introduce this bill.

By Mr. MUSKIE (for himself and Mr. HARRIS):

S. 1945. A bill to improve the intergovernmental coordination of programs to control drug abuse within the United States. Referred to the Committee on Government Operations; and, by unanimous consent, to the Committee on Labor and Public Welfare, if and when reported by the Committee on Government Operations.

INTERGOVERNMENTAL DRUG ABUSE CONTROL COORDINATION ACT OF 1971

Mr. MUSKIE. Mr. President, I introduce a bill entitled the Intergovernmental Drug Abuse Control Coordination Act of 1971. I believe it will be referred to the Government Operations Committee. However, to the extent that there is any overlap of the jurisdiction of the Senate Labor and Public Welfare Committee, I ask unanimous consent that the bill, after it is reported by the Government Operations Committee, be referred to the Labor and Public Welfare Committee.

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

Mr. MUSKIE. Mr. President, narcotics addiction in America has reached epidemic proportions. It affects all areas and segments of our society, the urban and the rural, the affluent and the poor, the young, and the middle-aged. It leads to increasing crime, terrorizing our citizens. It has destroyed thousands of our

youth and ruined the lives of hundreds of thousands more.

We need now an effective program to end this scourge. At a time when Washington, D.C., drug addicts steal between \$300 and \$500 million each year to maintain their habits, at a time when 1,000 babies are born addicted to heroin each year in New York, because of their mother's addiction—certainly it is time to examine our efforts to deal with the problem, to determine why we have failed to stop this epidemic and to propose methods of ending this threat to our Nation.

Review of present Federal efforts to control drugs reveals them to be fragmented, underfunded, and too frequently poorly led. This is not a failure of any one administration but a national failure.

One study has preliminarily estimated that of the \$134,066,000 the Federal Government will spend in fiscal 1971, over \$62 million—or very nearly one-half—will be spent on law enforcement. Increased funds for law enforcement are necessary, but law enforcement will never totally eliminate the supply of narcotics in this country. There are literally thousands of places on ships, on planes, and in cars to hide heroin and it is impossible to inspect all of these places, given the 65 million cars and trucks, 360,000 planes, and 156,000 ships which enter this country each year.

Moreover, once within this country, the large sums of money at stake—thousands of dollars worth of pure heroin can be hidden in a lipstick container—virtually guarantee the availability of individuals ready, willing, and able to take whatever risks necessary to supply the demand.

Remaining Federal expenditures are directed toward three types of programs designed to reduce demand—education, research, and treatment and rehabilitation.

Over \$7 million will be expended for education and prevention. Education is necessary, but once again, there is the question of what we are, in fact, achieving. What, if any, education programs actually work? Do some educational programs do more harm than good? These are the kinds of questions that money alone will not answer.

Nearly \$20 million will be spent by the Federal Government on medical and law enforcement research in fiscal 1971. Much of the medical research suffers from a lack of a sense of urgency. Apart from some truly dedicated individuals, our best scientific minds are not willing to undertake subsidized drug research. We need to know more about drugs themselves and their effects. We urgently need to discover better antagonist drugs. We must have accurate and precise information about the character of drug abusers and we need scientific evaluations of various treatment modalities. Yet, we have no overall plan of research which takes into account what we already know, what we need to know, and who, if anyone, can be persuaded to undertake the required research.

Treatment and rehabilitation expenditures of \$43 million account for the re-

maining Federal effort. Despite this relatively large expenditure, the number of addicts receiving treatment is minuscule when one considers that the National Institute of Mental Health estimates that there are 200,000 to 250,000 addicts in this country.

Titles I and II of the Narcotic Addict Rehabilitation Act—NARA—of 1966 provide for the civil commitment of addicted Federal offenders, either voluntarily or in lieu of prosecution. Under these two titles, the National Institute of Mental Health treated only 1,119 patients in fiscal 1970—at a cost of approximately \$10,000 per person in treatment per year.

Under title II of the NARA, which provides for the treatment of addicts who have been sentenced to prison, 754 persons were committed for treatment between March 15, 1968, and July 31, 1970. Of these, only 494—or 65 percent—were accepted. And as of July 31, 1970, 312 were still in treatment.

Under the amendments to the Community Mental Health Centers Act, NIMH funds a number of community treatment centers, and it will spend \$9.9 million for this purpose in fiscal 1971. As of June 30, 1970, 15 of these centers were operational and were treating only 3,165 patients.

The Veterans' Administration has estimated that 25 percent of the addicts in this country are veterans. While all of these individuals are not eligible for VA benefits—due to the previous practice of the armed services giving less than honorable discharges to drug abusers—clearly the VA effort is inadequate. There are only five drug treatment units in the VA hospital system, with an average of 15 beds each. Current plans of the VA involve the establishment of an additional 12 units in fiscal 1972 and a further 13 units in fiscal 1973. Given the recent change in Department of Defense regulations to encourage the services to grant discharges to drug abusers which will not render them ineligible for VA benefits, and given the fact that a House subcommittee has indicated that as many as 10 percent of the men in Vietnam could be users of hard drugs, the VA effort must be expanded severalfold.

This brief description of the Federal effort to solve the problem clearly indicates a threefold need. First, there is an obvious and immediate need for coordination. A mere listing of the agencies involved in the drug abuse effort demonstrates this fact graphically. The Bureau of Narcotics and Dangerous Drugs—BNDD—the Bureau of Customs, and the Law Enforcement Assistance Administration—LEAA—are just three of the Federal agencies engaged in law enforcement. The National Institute of Mental Health, the Office of Education, the Bureau of Narcotics and Dangerous Drugs, and the Department of Defense are involved in education and prevention. The Office of Economic Opportunity, the Social and Rehabilitation Service, the Department of Defense, the National Institute of Mental Health, and the Veterans' Administration are involved in treatment and rehabilitation. Finally, the Law En-

forcement Assistance Administration, the National Institute of Mental Health, and the Bureau of Narcotics and Dangerous Drugs are all involved in some form of research.

This scattershot, fragmented federal effort causes duplication, failure to do the things which should be done, an inordinate amount of "buckpassing," and an inefficient allocation of resources. The efforts of all these agencies must be coordinated, monitored, and woven into an effective and disciplined attack upon the problem.

In my discussion of the fragmented Federal antidrug effort, I have not even touched upon the fragmentation and lack of coordination in the efforts to control drug abuse by State and local governments.

During the past few years, many State and local governments have made laudable beginnings toward coming to grips with the drug crisis. Several States have created drug abuse authorities. Local governments have instituted treatment and prevention programs. But the efforts of one State or one city are not coordinated with the efforts of a neighboring State or city, and the efforts of State and local governments are not coordinated with the efforts of the Federal Government.

Clearly, there is need for coordination of the antidrug effort at and among all levels of government.

A second and related need is for comprehensive planning and leadership. At present, no one is in charge of designing a comprehensive, integrated program for dealing with drug abuse. Some Federal agencies are engaged in activities which logically fall within the competence of other parts of the Federal Government. Other agencies possess the expertise and authority to do more than they are now doing. Still others are not involved in combating drug abuse, despite their obvious ability to do so. Finally all too often the Federal Government does not consider the impact of its programs on State and local programs. Some form of comprehensive planning is required to rectify this situation.

A third and final need is perhaps the most important. We must have leadership. We need someone to mobilize public opinion and direct it to constructive channels. We need someone who can convert the public anger, fear, anxiety, and passion which surround this issue into a sense of urgency in the governmental bureaucracy. We need someone to assume responsibility and "take charge."

To meet this threefold need, I am today, with the cosponsorship of Senator HARRIS, introducing legislation entitled "The Intergovernmental Drug Abuse Control Coordination Act of 1971" to coordinate intergovernmental attack on drugs and to establish an Office of Drug Abuse Control within the Executive Office of the President. This legislation is similar to legislation introduced in the House of Representatives by JAMES H. SCHEUER, Democrat of New York, and 60 of his colleagues, and is designed to pro-

vide the leadership, coordination, and planning we so urgently require.

The Office which would be established by the legislation would be specifically directed to coordinate Federal antidrug efforts with those of State and local governments and to develop a multifaceted multidisciplinary program involving research, education, domestic and foreign law enforcement, crop diversification programs abroad, and treatment and rehabilitation. The Office would possess its own budget and its own appropriation. The Director would report both to the President and to the Congress. He would possess the authority to employ experts required, either from the private sector or by loan from Federal departments or agencies.

One of the most important features of the legislation empowers the Director to make recommendations to the President with respect to the expenditure of funds by Federal departments or agencies for programs related to drug abuse control, including programs located in the Departments of Defense, Agriculture, Labor, Commerce, Justice, Treasury, Health, Education, and Welfare, Housing and Urban Development, and State. This budgetary power will guarantee the ability of the Director to influence the programs conducted by these departments and will thus insure his ability to develop a coordinated, comprehensive, and truly effective program.

Creation of this office would allow us to make a much more substantial, coordinated, and imaginative effort at international control and even the elimination of drugs.

Narcotics addiction is not just an American problem. Indeed, most hard narcotics are produced abroad and smuggled into the United States. Opium and its derivatives are used by addicts all over the world, and in other areas more extensively per capita than in the United States. Opium and its derivatives are smoked, eaten, sniffed, or injected in Iran, Hong Kong, India, Burma, Laos, Thailand, West Germany, Singapore, and virtually every other country in the world.

As long as poppy is grown to supply addicts and users in these countries, some opium will be available and will be utilized to supply the demand for opiates in this country. Thus, if the United States it to control, if not eliminate, narcotics addiction in this country, we must be prepared to participate, in a meaningful way, in an international effort to control opium production wherever it exists.

This fact was recognized as long ago as 1907 when, at the suggestion of President Theodore Roosevelt, the first international conference on opium was convened. Virtually all international efforts to control opiate addiction can be traced to that date and the treaty which resulted in 1912.

Today, the major international treaty on the subject is known as the Single Convention on Narcotic Drugs of 1953. This convention is primarily designed to control the production of opium for legitimate medicinal uses—that is, for the

production of the painkiller morphine and the antitussive codeine. The 1961 Single Convention is supervised by the International Narcotics Control Board which reports to the Economics and Social Council of the United Nations.

In one sense, the 1961 Single Convention must be considered a great success. Opium grown in India, Turkey, and the U.S.S.R. for worldwide medicinal use does not enter the illicit market once it is collected by the governments concerned. International controls on the growth of opium and the manufacture of morphine and codeine are very strict and effective and virtually none of these opiates can be said to "leak" out of legal channels into the illegal market.

The problem then is not with opium that is legitimately produced for medicinal purposes. Rather, the problem lies in opium which is produced illegally or which never finds its way into legal channels. This is the opium which finds its way into the hands of addicts all over the world.

Due to soil and climatic requirements and to the labor-intensive character of poppy culture, most of the world's supply of opium, legal and illegal, is produced within a zone extending from the Turkish Anatolian Plain to Yunnan Province in China.

Some experts have estimated that as much as 80 percent of the illegal heroin which reaches this country originates as opium produced in Turkey. This opium is produced by Turkish farmers in the same manner as opium which they produce to supply some 20 percent of the world's requirements for medicinal opiates. However, unlike the opium which is collected by the Turkish Government and which thus enters legal channels, this opium is illegally diverted into the hands of the men who supply the illicit demand for narcotics in the United States, Iran, and some other countries.

There are at least two ways of controlling the illegal production of opium in Turkey. The first is to guarantee, by some means, that all the opium that is grown in Turkey enters legal channels.

An initial step in this process involves a reduction in the number of provinces in which poppy culture is permitted. The Turkish Government has, in fact, reduced the number of provinces from 21 in 1967 to seven in 1971. In June, the number of provinces is expected to be further reduced to four. By reducing the number of provinces and by confining the provinces which are permitted to grow poppy to those which are located away from Turkish borders, surveillance of poppy culture is facilitated and production is more easily controlled.

In addition, the Turkish Government should develop an efficient collection procedure, including the offer of a price for opium to the farmers which is competitive with the price offered by the illegal market. The United States has recently announced that it will provide the Turkish Government with an estimated \$5 million for this purpose.

In the final analysis, though, the total elimination of Turkish production is the

only method of preventing Turkish opium from entering illegal channels. Thus, the solution to the problem of illegal Turkish production lies in economic development and crop substitution and the new Turkish Government has indicated a willingness to embark upon such a policy.

The elimination of illegal Turkish production will not guarantee an end to the availability of illegal drugs.

Most of the world's supply of illegal opium is produced in the Far East, with other areas tending to rank in descending order of importance as one moves westward. Thus, Burma, Laos, and Thailand account for more than half of the estimated world illicit production of 1,250 to 1,400 tons, with Burma alone accounting for nearly 30 percent. The Afghanistan-Pakistan region is in second place with an output on the order of 300 tons, and India is in third place with estimated production of 175 to 200 tons.

Dealers in illicit drugs have demonstrated a remarkable flexibility in replacing sources of supply that have been eliminated. For example, the cessation of opium production in Iran in 1955, coupled with the sharp reduction of illicit cultivation in South China upon the accession of the Communist government, led to the development of and a steady increase in production in Afghanistan-Pakistan, India, Turkey, as well as Burma, Laos, and Thailand. The elimination of illegal production in Turkey will only lead to an increased importance of other areas as sources of supply. In fact, there are already indications that production in these areas is increasing in anticipation of production control in Turkey.

The elimination of opium production in Burma, Laos, Thailand, and Afghanistan-Pakistan will no doubt prove even more difficult than elimination of Turkish production.

Most of the production in these countries, although illegal, occurs in remote areas over which the central government lacks enough administrative control to enforce the law.

Moreover, in most of these areas, opium production represents the only cash crop which can be grown and transported to market. For example, one expert has estimated that if one village in the Far East substituted potatoes for opium, it would occupy all the village's 52 horses for 4 months in order to get the potatoes to market—a distance of 25 kilometers.

Obviously, an effort to eliminate production in these areas may require resources beyond those possessed by the countries involved. When the United Nations Commission on Narcotics Drugs—an organ of the Economic and Social Council—considered the problem, it noted "in virtually every case, the countries where—illicit opium—production took place were developing countries, and the areas within their territory where there was such narcotics cultivation were usually the more underdeveloped and poorer parts of the world national territory. It must be recognized that the governments concerned, with their limited financial resources and many impera-

tive claims of high national priority on their budget, required substantial outside assistance in order to create the conditions under which the population involved could adapt other means of livelihood than the cultivation of narcotic crops."

Any effort to eliminate illegal opium production in these areas will thus require funds for crop substitution programs, economic development, and law enforcement.

Moreover, an effort will be required to reduce the demands for these drugs. As long as there is a substantial addict population in the Far East, it will be profitable to produce opium, and as long as opium is produced, some narcotics will find their way into this country.

The United Nations has already recognized the need for a worldwide effort of the type which I have outlined. In October 1970, at the urging of our State Department, the United Nations established a Special Fund for Drug Abuse Control. This fund, run by international civil servants and financed by voluntary contributions from governmental and private sources, is designed to finance the development of a program for the elimination of the international traffic in illegal opium and its derivatives. The Director of the fund has been appointed and the Secretary General has begun to solicit voluntary contributions.

The United States must make a substantial contribution, both alone and in concert with other countries and international institutions, to the effort to control illicit opium production.

Accordingly, I am today introducing legislation to establish a separate foreign aid program which will enable the United States to assume a leadership role in the international effort to control poppy culture. The bill which, again, is similar to a bill introduced in the House by Representative SCHEUER, would enable the United States to undertake bilateral assistance programs and to make contributions to international organizations, such as the Special Fund, for the law enforcement assistance, research programs, treatment and rehabilitation centers, and crop substitution—economic development programs which will be required in order to bring illicit opium production under control.

This bill is also similar to a title of a bill introduced by Senator MONDALE. Senator MONDALE's bill also proposes the denial of U.S. aid to countries producing illicit opium, but by introduction of this bill, I wish to call attention to the possibility of crop substitution as the long-term answer to the international drug problem. Of course, there are many unanswered questions about such a program, and it is my hope that the Congress will be able to consider in a series of hearings, not only crop substitution programs, but all of the United States' present and possible future international efforts in controlling drugs.

Mr. President, as I have noted, the problem of drug abuse is not solely an American problem. It affects countries all

over the world, developed as well as underdeveloped.

Moreover, a solution to the problem will not be found through American actions alone. A true solution to the problem will be reached only through international cooperation involving the support of both producing and consuming countries.

According, hearings into the entire subject of international action to control drug abuse would be extremely helpful. One of the first areas explored would involve a consideration of proposals to amend the Single Convention on Narcotic Drugs of 1961.

The United States has recently proposed several amendments to the 1961 Single Convention designed to strengthen the treaty and the International Narcotics Control Board, the enforcement body established by the convention. These proposals are designed to improve the treaty's coverage of the illegal traffic in opium. Congress could investigate these proposals, determine their adequacy, and estimate the possibilities of their adoption. Congress could also investigate the activities of the newly established United Nations Special Fund for Drug Abuse Control.

The United States has pledged a \$2 million contribution for the operation of the fund during 1971, and recently, Ambassador Bush presented the Secretary General with a \$1 million letter of credit as our initial payment. This development is encouraging but far from satisfactory.

As a general rule of thumb, the United States contributes 35 percent of the budgets of international organizations. Other governments utilize this rule of thumb in determining their own contributions to international organizations. The small \$2 million pledge of the United States will thus result in an initial funding of the Special Fund at a level of approximately \$5 million.

Congress should investigate what level of U.S. funding is really necessary to make the Special Fund a truly effective weapon in the fight against drugs.

Congress also should investigate the activities of other international organizations which are or should be making a contribution to the fight against drug abuse.

Interpol, the international crime information center, could make a valuable contribution in the fight against international drug traffic. Yet, the organization has a budget of less than \$1 million and a senior member of the Swedish police board, Esbjoern Esbjoernsson, has been quoted as saying, "Interpol has not changed its working methods to any appreciable extent since 1946. You could describe it as little more than a post office. It takes no initiatives of its own."

The Congress could investigate the activities of Interpol, estimate its potential, and attempt to determine why the United States is in arrears in its dues.

There are many other international organizations that the Congress could review to determine if the United States is doing all it can to combat drugs.

The Food and Agricultural Organization of the United Nations has approxi-

mately 2,300 agents in the field who possess substantial credibility in the underdeveloped countries and who possess great expertise in the field of crop substitution. The Congress could investigate the potential utility of the FAO in the part that crop substitution can play in eliminating illegal opium production and attempt to determine the reason for the fact that, as of 1970, FAO has no program or allocation for narcotics control.

The World Health Organization of the United Nations can and does perform a useful research in the field of drug control. In fact, during the calendar year of 1970, the organization planned to undertake the following activities:

First, to keep under review the situation in the use and abuse of dependence-producing drugs;

Second, to foster the development of research on the epidemiology and prevention of drug dependence and the treatment of persons dependent on drugs;

Third, to promote the development of treatment resources and programs for drug-dependent persons;

Fourth, to evaluate the abuse liability of drugs and formulate decisions and recommendations on the classification of dangerous drugs under the relevant international treaties;

Fifth, to advise the United Nations Commission on Narcotics Drugs and the International Narcotics Control Board, as well as governments, on all aspects of drug dependence and abuse;

Sixth, to arrange technical assistance activities and seminars in the field of drug abuse, and, where appropriate, to do so in conjunction with corresponding activities of other international agencies.

For these purposes, the organization planned an expenditure of only \$47,200, a slight increase of \$1,525 over 1969.

The Congress could investigate the adequacy of the WHO program, determine the role it could play in an international program of drug abuse control, and the resources it should receive to accomplish its objectives.

The Committee on Social and Health Questions of the Consultative Assembly of the Council of Europe has considered the problem of drug abuse in the past. The Congress could investigate the activities of this committee and should attempt to determine its potential contribution to the problem of drug abuse control.

In mid-February, a United Nations conference adopted a draft convention on psychotropic substances—the hallucinogens, such as LSD and mescaline; the central nervous system stimulants—"pep pills"—and central nervous system depressants—sleeping pills of the barbiturate type and tranquilizers—which are being increasingly used and abused in many parts of the world. The United States played a leading role in this conference, and our delegation signed the draft treaty.

The Congress could investigate the adequacy of this treaty, in light of the

extensive and increasing abuse of these drugs.

Finally, the Congress should investigate all elements of an international program for the control of opium production. In addition to an exploration of the law enforcement, drug abuse prevention, research, and treatment and rehabilitation aspects of such a program, the Congress should investigate the feasibility of crop substitution as a means of inducing poppy farmers to switch to other cash crops. In particular, the Congress could investigate the successful Yugoslavian program of inducing poppy farmers to switch to melons and vegetables, the prospects of inducing Lebanese farmers to switch from the production of hashish to the production of sunflower seeds and oil, and the prospects of switching Pakistani and Indian farmers to varieties of Mexican or other wheat.

Mr. President, a mere enumeration of the subjects of possible investigation by the Congress clearly indicates the relatively long-term nature of any program to control opium production. But, we must start such a program now if we are to save the more than 250,000 addicts in the United States from a life of degradation and crime and our citizens from the ravages produced by the crimeogenic effects of addiction. Hopefully, such hearings as I have indicated will provide us with the sound factual basis upon which we can rapidly build an effective approach to this most terrible epidemic.

Mr. HARRIS. Mr. President, I am pleased to join with the distinguished Senator from Maine (Mr. MUSKIE) in introducing a bill to establish the Office of Drug Abuse Control within the Executive Office of the President. This bill has been introduced in the House of Representatives by Congressman JAMES H. SCHEUER, Democrat, of New York, who has done extensive research on this problem in this country and abroad and who should be congratulated for the contribution he has made in offering comprehensive proposals to meet the drug crisis.

It is well recognized that the efforts of this country to meet the drug crisis have been deficient. The use of hard narcotics has increased so rapidly that in at least one major city, New York City, narcotic addiction is the greatest single cause of death of adolescents and young adults from 15 to 35. In a recent report by the House Select Committee on Crime, it was pointed out that in the past 8 years New York City has "lost more lives to drugs than the entire State of New York has lost in the war in Vietnam."

In December of 1969 it was estimated that there were 64,994 known opiate addicts in the United States and an estimated 200,000 heroin addicts.

Aside from the harm to the health of the drug user, drug addiction has other serious consequences. In one city it is estimated that 98 percent of the addicted adults turn to crime to support their habit. Estimates of thievery by heroin addicts in New York City add up to approximately \$2 billion worth a year and to approximately \$450 million in the District of Columbia.

Additionally the drug crisis burdens our judicial system, our health facilities, and adversely affects almost every aspect of our society.

Our attempts to meet this crisis have not been adequate. Drug education, law enforcement, and rehabilitation programs have lacked imagination, have been poorly coordinated, and have not resulted in a reversal of the trend of increasing drug use.

On the domestic scene, our drug education programs have not had the desired impact on college students and knowledgeable ghetto youths. Law enforcement personnel readily admit that they have done little to reduce the supply of available drugs and admit that the situation is growing more critical day by day.

Programs of rehabilitation are being supported only to the extent that we reach less than 10 percent of those in need of rehabilitative care.

Likewise our efforts to deal with the international aspects of this problem have been inadequate. We know that at least 80 percent of the heroin entering this country originates in the plains of Anatolia in Turkey, yet as Congressman SCHEUER recently pointed out we "have made no concentrated effort to provide Turkey and the other poppy producing countries with police training and law enforcement technology, administrative expertise for licensing inspection of poppy culture, aid in crop diversification, or the means and the provision of providing alternative sources of employment."

The distinguished senior Senator from Minnesota (Mr. MONDALE) has introduced S. 509, the International Opium Control Act, which I am cosponsoring, that would require the President to enter into negotiations with other countries for the purpose of agreeing to a treaty for the systematic and uniform international system of enforcement standards and penalties for illegal opium producers and traffickers. The President would also be given the authority to discontinue all military, economic, and other assistance to a country continuing to permit the production and processing of opium which illegally enters the United States. The intent and purpose of S. 509 is consistent with the bill the distinguished junior Senator from Maine (Mr. MUSKIE) and I are introducing today, which is designed to coordinate the efforts, both domestic and international, that are being made to solve this problem.

Fragmentation characterizes our efforts to control drug abuse. At least nine congressional committees have been involved from time to time in different aspects of the problem. The Departments of Agriculture, Defense, Justice, Treasury, Health, Education, and Welfare, State, Labor, Commerce, Housing and Urban Development, and NASA and OEO have all initiated programs designed to help meet the drug problem.

This bill would pull together all of our present fragmented efforts in the area of drug abuse by establishing within the Executive office of the President an Office of Drug Abuse Control. The Director, who would be appointed by the President

subject to Senate confirmation, would have wide authority to deal with drug abuse, both on the domestic and international level.

The domestic program envisioned by this bill would induce research both for substitute nonaddictive drugs for medicinal use, and new drugs for treatment of addiction and the withdrawal process. Development of a large scale national methadone maintenance program, with supportive services, would be provided for. A plan would be developed to monitor the manufacture, distribution, and dispensing of amphetamines, barbiturates, and tranquilizers. Our computer technology can be used with great effectiveness in such a plan. The Director would also develop and evaluate educational drug abuse prevention programs.

On the international level, the Director would prepare a program for the effective use of facilities of governmental and international organizations to control drug traffic. The United States would make available technological assistance to foreign countries and international organizations to enable them to more effectively control drug abuse. Such assistance may include high altitude and satellite surveillance to detect illicit crops. Scientific methods can be used to detect smugglers, and the products from chemically treated poppy fields can be traced to monitor the licit operations and the diversion of drugs into the illicit market. By sharing knowledge in the field of agriculture and crop diversification, the poppy farmers could be directed into a more financially rewarding agricultural effort. By cooperating with such institutions as the World Health Organization, the Food and Agricultural Organization, Interpol, and international lending agencies, broad programs for shifting the employment of drug producers and better control of international drug traffic can be realized.

In addition to formulating domestic and international programs, the Director is to plan the coordination of all drug abuse programs presently being carried out by the Federal Government. This would cut across many bureaucratic lines and affect the following Departments: Justice and Treasury, as to law enforcement; HEW and OEO, as to medical research and treatment programs, and drug education programs; DOD and NASA, as to research; Agriculture, as to agricultural research and technical assistance; State and AID, as to development of programs of international scope. Upon approval of a coordinating plan by the President, the plan shall be carried out with necessary administrative action and legislation being provided by the President and the Congress.

Mr. President, the present illicit drug traffic cannot be allowed to flow unchecked. Congress must take action, both on the domestic and international levels, to mobilize American technology, experience and the full force of concerted governmental programs against this serious threat to our society. We must act with reason. We must coordinate our efforts to achieve maximum results. I be-

lieve this bill, along with other proposals I have mentioned, will lead to a more effective use of America's resources to eventually eliminate the illegal drug traffic with which the United States is now plagued.

By Mr. HUMPHREY:

S. 1946. A bill to authorize the Attorney General to provide a group life insurance program for State and local government law enforcement and firefighting officers. Referred to the Committee on the Judiciary.

LIFE INSURANCE FOR POLICEMEN AND FIREMEN

Mr. HUMPHREY. Mr. President, I offer legislation today to provide group life, accidental death and disability insurance to our law enforcement and firefighting officers throughout America. The insurance will include full-time, part-time, and volunteer officers.

There are several reasons why this type of insurance must be made available at reasonable cost to those who protect our lives and property. First, it acknowledges our pride and respect for the police and firemen who serve our communities. Second, it provides insurance at a reasonable cost to these public servants. Third, it will be additional inducement in recruiting and retaining good men and women for our law enforcement and firefighting forces.

These public servants take their public trust very seriously. They serve us well. They serve so that we can feel more secure in our person and property—so that we can walk the streets safely—so that we can be assured of the protection of our individual and collective rights.

The financial security that group life insurance grants to the policeman, fireman, and his family would enhance their feeling of self-sufficiency and pride. It would make unnecessary the charity dole or the humiliation of welfare for the widow and family of a fallen officer. No longer would an officer have to think of his own family being placed in such a position because of his commitment to public service.

Mr. President, the cost of securing individual life insurance for policemen and firemen makes this legislation a necessity. Again and again this fact has been confirmed. Duties of high risk are part of their daily lives. They face death or severe disablement, in the line of duty, as a matter of course. Insurance premiums for these public servants just cannot be borne by the officer on an individual basis. Double indemnity in case of accidental death is another family protection difficult to afford.

We who are protected by the police and firefighting forces of America have an obligation to these public servants, their families, and to our own self-interest, to see that service on these forces brings financial security and a sense of pride.

The wife of any policeman or fireman—perhaps a young woman with small children—does not want to see her husband being stoned or shot at or otherwise severely abused. The job of maintaining law and order and protect-

ing our lives and property is difficult and dangerous enough. Adding dangers from mob action or sniping by a group of extremists or a demented individual makes it even more difficult to serve. It takes great dedication to the cause of a decent and just society for these men and women to persist in their commitment. We must provide additional inducements to make it easier for them to enter and remain in our police and firefighting forces.

From 1960 through 1969, 561 police officers were killed in the performance of their duties. It is estimated that another 100 have been killed during 1970. The increase in 1969 over 1968 was 34 percent—64 killed in 1968 and 86 killed in 1969.

The figures for firemen are just as shocking. This is particularly so when you realize some were killed not by fire, smoke, or other inherent job hazards. They were killed by gunshot, or by rocks, or by physical assault. The need for additional protection for firemen is just as pressing as that for policemen. In 1967 there were 65 fatalities in the line of duty—in 1968 there were 90 and in 1969 the number rose to 104. Estimates place the figures for 1970 at an even higher figure.

I have talked with individual policemen and firemen in Minnesota and throughout the country. This insurance is needed and needed now. Support for this type of legislation has come from the various professional societies of policemen and firemen.

The legislation is patterned after the life insurance programs instituted for the Armed Forces and Federal Government employees. The administrative structure and know-how for such a program already exists. The Attorney General, as the chief law enforcement officer of the Nation, would be responsible for the policies and administration of this program.

The Justice Department would contract with private insurance carriers for life insurance and disablement coverage. The premium costs would be split, with the officer responsible for two-thirds and the Federal Government paying the remaining one-third. Payments on death or severe disability would be the sum of the next higher thousand of the officer's annual pay, plus \$2,000. An officer making \$8,100 a year would thus have coverage of \$11,000, or in case of accidental death, or severe disability, \$22,000. Accidental death would mean that resulting from other than natural causes.

Provisions of the bill permit local option in retaining present ongoing insurance programs. Also, those who gained membership in the group program while in the law-enforcement or firefighting forces, would have the option to convert membership upon leaving the force.

Mr. President, the average police or firefighting officer would pay approximately \$30 to \$40 a year for this insurance. Premium levels should remain fairly close to these figures. However, there may be some slight premium adjustments, as the program gets underway

and cost figures are developed that more fully reflect some insurance practices.

Mr. President, several suggestions have been made as to how we might provide some additional financial security to these officers and their families. I do not presume to say that the method I propose today is the full answer. However, it is a beginning, and I trust it will contribute to discussion and will provide additional material for congressional consideration of this issue.

We in Congress must act. Crime is a national concern and we should not permit quite meaningless jurisdictional lines to keep us from providing this needed protection. America is such a highly mobile, technological and heterogeneous society that it just does not make sense to invoke a State's rights argument in opposing these insurance proposals. This is not intervention into criminal jurisdiction; it is a recognition of our national responsibility to see that police and firefighting forces throughout the country are protected. Nothing makes more sense than to help protect those who insure our own security and peace of mind.

Mr. President, the building and maintaining of highly professional law enforcement and firefighting forces is very clearly in our own self-interest as individuals and as a civilization. We must make service in these forces attractive and rewarding.

We have established programs that help professionalize the forces we have. However, in the area of financial security we have been providing far less both in compensation and necessary basic benefits to permit more American men and women to declare their commitment to a secure America—made secure through their dedication to public service.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 1946

A bill to authorize the Attorney General to provide a group life insurance program for State and local government law enforcement and firefighting officers

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 "Law Enforcement and Firefighting Officers' Group Life Insurance Act of 1971".

DEFINITIONS

SEC. 2. For the purposes of this title—

(1) The term "month" means a month which runs from a given day in one month to a day of the corresponding number in the next or specified succeeding month, except where the last month has not so many days, in which event it expires on the last day of the month.

(2) The term "Law enforcement or firefighting officer" means, pursuant to regulations promulgated by the Attorney General, an individual who is employed full or part-time by a State or a unit of local government primarily in preserving order and enforcing the laws, or in firefighting activities, or who voluntarily and without compensation performs such law-enforcement or firefighting duties for such a State or local unit of government.

(3) The term "State" means any State of the United States, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(4) The term "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose subdivision of a State, or any Indian tribe which the Secretary of the Interior determines performs law enforcement or fire-fighting functions.

ELIGIBLE INSURANCE COMPANIES

SEC. 3. (a) The Attorney General is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits provided under this Act. Each such life insurance company must (1) be licensed to issue life insurance in each of the fifty States of the United States and in the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Attorney General, have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

(b) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Attorney General.

(c) The Attorney General shall arrange with each life insurance company issuing any policy under this Act to reinsure, under conditions approved by him, portions of the total amount of insurance under such policy with such other life insurance companies (which meet qualifying criteria set forth by the Attorney General) as may elect to participate in such reinsurance.

(d) The Attorney General may at any time discontinue any policy which he has purchased from any insurance company under this Act.

PERSONS INSURED; AMOUNT

SEC. 4. (a) Any policy of insurance purchased by the Attorney General under this Act shall automatically insure any law enforcement or firefighting officer employed on a full-time basis by a State or unit of local government which has (1) applied to the Attorney General for participation in the insurance program provided under this Act, and (2) agreed to deduct from such officer's pay the amount of the premium and forward such amount to the Department of Justice or such other agency or office as is designated by the Attorney General as the collection agency for such premiums. The insurance provided under this Act shall take effect from the first day agreed upon by the Attorney General and the responsible official of the State or unit of local government making application for participation in the program as to law enforcement and firefighting officers then on the payroll, and as to law enforcement and firefighting officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this Act shall so insure all such law enforcement and firefighting officers unless any such officer elects in writing not to be insured under this Act. If any such officer elects not to be insured under this Act he may thereafter, if eligible, be insured under this Act upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Attorney General.

(b) A law enforcement or firefighting officer eligible for insurance under this Act is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

| If annual pay is— | | The amount of group insurance is— | |
|-------------------|-----------------------|-----------------------------------|------------------------------------|
| Greater than— | But not greater than— | Life | Accidental death and dismemberment |
| 0 | \$8,000 | \$10,000 | \$10,000 |
| \$8,000 | 9,000 | 11,000 | 11,000 |
| \$9,000 | 10,000 | 12,000 | 12,000 |
| \$10,000 | 11,000 | 13,000 | 13,000 |
| \$11,000 | 12,000 | 14,000 | 14,000 |
| \$12,000 | 13,000 | 15,000 | 15,000 |
| \$13,000 | 14,000 | 16,000 | 16,000 |
| \$14,000 | 15,000 | 17,000 | 17,000 |
| \$15,000 | 16,000 | 18,000 | 18,000 |
| \$16,000 | 17,000 | 19,000 | 19,000 |
| \$17,000 | 18,000 | 20,000 | 20,000 |
| \$18,000 | 19,000 | 21,000 | 21,000 |
| \$19,000 | 20,000 | 22,000 | 22,000 |
| \$20,000 | 21,000 | 23,000 | 23,000 |
| \$21,000 | 22,000 | 24,000 | 24,000 |
| \$22,000 | 23,000 | 25,000 | 25,000 |
| \$23,000 | 24,000 | 26,000 | 26,000 |
| \$24,000 | 25,000 | 27,000 | 27,000 |
| \$25,000 | 26,000 | 28,000 | 28,000 |
| \$26,000 | 27,000 | 29,000 | 29,000 |
| \$27,000 | 28,000 | 30,000 | 30,000 |
| \$28,000 | 29,000 | 31,000 | 31,000 |
| \$29,000 | | 32,000 | 32,000 |

The amount of such insurance shall automatically increase at any time the amount of increases in the annual basic rate of pay places any such officer in a new pay bracket of the schedule.

(c) Subject to the conditions and limitations approved by the Attorney General and which shall be included in the policy purchased by him, the group accidental death and dismemberment insurance shall provide for the following payments:

| Loss | Amount payable |
|--|---|
| For loss of life..... | Full amount shown in the schedule in subsection (b) of this section. |
| Loss of one hand or of one foot or loss of sight of one eye. | One-half of the amount shown in the schedule in subsection (b) of this section. |
| Loss of two or more members or loss of sight in both eyes. | Full amount shown in the schedule in subsection (b) of this section. |

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

(d) The Attorney General shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

TERMINATION OF COVERAGE

SEC. 5. Each policy purchased by the Attorney General under this Act shall contain a provision, in terms approved by the Attorney General, to the effect that any insurance thereunder on any law enforcement or firefighting officer shall cease thirty-one days after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier.

CONVERSION

SEC. 6. Each policy purchased by the Attorney General under this Act shall contain provision for the conversion of such insurance effective the day following the date such insurance would cease as provided in section 5 of this Act. During the period such insurance is in force the insured, upon request to the office established under section 3(b) of this Act, shall be furnished a list of life insurance companies participating in the pro-

gram established under this Act and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums be granted insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof or for the payment of an additional amount of premiums if the insured engages in law enforcement or firefighting activities. In addition to the life insurance companies participating in the program established under this Act, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Attorney General and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

WITHHOLDING OF PREMIUMS FROM PAY

SEC. 7. During any period in which a law enforcement or firefighting officer is insured under a policy of insurance purchased by the Attorney General under this Act, his employer shall withhold each month from his basic or other pay until separation or release from full-time duty as a law enforcement or firefighting officer an amount determined by the Attorney General to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this Act while on full-time duty as a law enforcement or firefighting officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial monthly amount determined by the Attorney General to be charged any law enforcement or firefighting officer for each unit of insurance under this Act may be continued from year to year, except that the Attorney General may redetermine such monthly amount from time to time in accordance with experience.

SHARING OF COST OF INSURANCE

SEC. 8. For each month any law enforcement or firefighter officer is insured under this title the United States shall bear not to exceed one-third of the cost of such insurance or such lesser amount as may from time to time be determined by the President to be a practicable and equitable obligation of the United States in assisting the States and units of local government in recruiting and retaining personnel for their law enforcement and firefighting forces.

INVESTMENT; EXPENSES

SEC. 9. (a) The sums withheld from the basic or other pay of law enforcement or firefighting officers as premiums for insurance under section 7 of this Act and any portion of the cost of such insurance borne by the United States under section 8 of this Act, together with the income derived from any dividends or premium rate readjustment from insurers shall be deposited to the credit of a revolving fund established in the Treasury of the United States. All premium payments on any insurance policy or policies purchased under this Act and the administrative cost of the insurance program established by this Act to the department or agency vested with the responsibility for its supervision shall be paid from the revolving fund.

(b) The Attorney General is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative cost of the program to the department or agency designated by him, and all current premium payments on any policy purchased under this Act. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-

bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield.

BENEFICIARIES: PAYMENT OF INSURANCE

SEC. 10. (a) Any amount of insurance in force under this Act on any law enforcement or firefighting officer or former law enforcement or firefighting officer on the date of his death shall be paid, upon establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

First, to the beneficiary or beneficiaries as the law enforcement or firefighting officer or former law enforcement or firefighting officer may have designated by a writing received in his employer's office prior to his death;

Second, if there be no such beneficiary, to the widow or widower or such officer or former officer;

Third, if none of the above, to the child or children of such officer or former officer and descendants of deceased children by representation;

Fourth, if none of the above, to the parents of such officer or former officer or the survivor of them;

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer;

Sixth, if none of the above, to other next of kin of such officer or former officer entitled under the laws of domicile of such officer or former officer at the time of his death.

(b) If any person otherwise entitled to payment under this section does not make claim therefor within one year after the death of the law enforcement or firefighting officer or former law enforcement or firefighting officer, or if payment to such person within that period is prohibited by Federal statute or regulations, payment may be made in the order of precedence as if such person had predeceased such officer or former officer, and any such payment shall be a bar to recovery by any other person.

(c) If, within two years after the death of a law enforcement or firefighting officer or former law enforcement or firefighting officer, no claim for payment has been filed by any person entitled under the order of precedence set forth in this section, and neither the Attorney General nor the administrative office established by any insurance company pursuant to this Act has received any notice that any such claim will be made, payment may be made to a claimant as may in the judgment of the Attorney General be equitably entitled thereto, and such payment shall be a bar to recovery by any other person. If, within four years after the death of the law enforcement or firefighting officer or former law enforcement or firefighting officer, payment has not been made pursuant to this Act and no claim for payment by any person entitled under this Act is pending, the amount payable shall escheat to the credit of the revolving fund referred to in section 8 of this Act.

(d) The law enforcement or firefighting

officer may elect settlement of insurance under this Act either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer the beneficiary may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary may elect settlement in thirty-six equal monthly installments.

BASIC TABLES OF PREMIUMS, READJUSTMENT OF RATES

SEC. 11. (a) Each policy or policies purchased under this Act shall include for the first policy year a schedule of basic premium rates by age which the Attorney General shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, this schedule of basic premium rates by age to be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per \$1,000 of insurance. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Attorney General in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance issued to large employers.

(b) Each policy so purchased shall include a provision that, in the event the Attorney General determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Attorney General may approve the determination of a tentative average group life premium, for the first or any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate shall be determined by the Attorney General during any policy year upon request by the insurance company issuing the policy, if experience indicates that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Attorney General on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance issued to large employers. Such maximum charges shall be continued from year to year, except that the Attorney General may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Attorney General to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

(d) Each such policy shall provide for an accounting to the Attorney General not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Attorney General, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end

of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of the total of items (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Attorney General as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Attorney General determines that such special contingency reserve has attained an amount estimated by the Attorney General to make satisfactory provision for adverse fluctuations in future charges under the policy, and further excess shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

BENEFIT CERTIFICATES

SEC. 12. The Attorney General shall arrange to have each member insured under a policy purchased under this Act receive a certificate setting forth the benefits to which the member is entitled thereunder; to whom such benefit shall be payable, to whom claims should be permitted, and summarizing the provisions of the policy principally affecting the member. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

FEDERAL ASSISTANCE TO STATES AND LOCALITIES FOR EXISTING GROUP LIFE INSURANCE PROGRAMS

SEC. 13. (a) Any State or unit of local government having an existing program of group life insurance for law enforcement or firefighting officers which desires to receive Federal assistance under the provisions of this section shall—

(1) inform the law enforcement and firefighting officers of the benefits and premium costs of both the Federal program and the State or unit of local government program, and of the intention of the State or unit of local government to apply for the Federal assistance under this section; and

(2) hold a referendum of law enforcement and firefighting officers of the State or unit of local government to determine whether such officers want to continue in the existing group life insurance program or apply for the Federal program under the provisions of this Act.

The results of the referendum shall be binding on the State or unit of local government.

(b) If there is an affirmative vote of a majority of such officers to continue in such State or local program and the other requirements set forth in subsection (a) are met, a State or unit of local government may apply for Federal assistance for such program for group life insurance under such rules and regulations as the Attorney General may establish. Assistance under this section shall not exceed three-fourths of the Federal contribution which would otherwise have been available under section 8 of this Act, and shall be reduced to the extent that the Attorney General determines that the existing program of any State or unit of local government does not give as complete coverage as the Federal program. Assistance under this section shall be used to reduce proportionately the premiums paid by the State or

the unit of local government and by the appropriate law enforcement and firefighting officers under such existing program.

ADMINISTRATION

SEC. 14. (a) The Attorney General may delegate any of his functions under this Act, except the making of regulations, to any officer or employee of the Department of Justice.

(b) In administering the provisions of this Act, the Attorney General is authorized to utilize the services and facilities of any agency of the Federal Government or a State government in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

ADVISORY COUNCIL ON LAW ENFORCEMENT AND FIRE-FIGHTING OFFICERS' GROUP LIFE INSURANCE

SEC. 15. There is hereby established an Advisory Council on Law Enforcement and Fire-fighting Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet once a year, or oftener, at the call of the Attorney General, and shall review the administration of this Act and advise the Attorney General on matters of policy relating to his activities thereunder. In addition, the Attorney General may solicit advice and recommendations from any State or unit of local government participating in the law enforcement and fire-fighting officers' group life insurance program.

JURISDICTION OF COURTS

SEC. 16. The district courts of the United States shall have original jurisdiction of any civil action or claim against the United States founded upon the Act.

PREMIUM PAYMENTS ON BEHALF OF LAW ENFORCEMENT AND FIREFIGHTING OFFICERS

SEC. 17. Nothing in this Act shall be construed to preclude any State or unit of local government from making payments on behalf of law enforcement and firefighting officers of the premiums required to be paid by them for any group life insurance program authorized by this Act or any such program carried out by a State or unit of local government.

EFFECTIVE DATE

SEC. 18. The insurance provided for under this Act shall be placed in effect for the law enforcement and firefighting officers of any State or unit of local government participating in the law enforcement and firefighting officers' group life insurance program on a date mutually agreeable to the Attorney General, the insurer or insurers, and the participating State or unit of local government.

By Mr. MUSKIE:

S. 1947. A bill to prohibit trading in Irish potato futures on commodity exchanges. Referred to the Committee on Agriculture and Forestry.

Mr. MUSKIE. Mr. President, I am happy to introduce today, at the request of the Maine Potato Council, legislation

prohibiting futures trading in Irish potatoes on commodity exchanges.

Passage of this legislation has been sought for a number of years by the potato growers in Maine.

Identical legislation has been introduced in the House this year, and in two previous Congresses. Lengthy hearings were held in 1966, before the House Subcommittee on Domestic Marketing and Consumer Relations, of the House Committee on Agriculture.

Since that time, the circumstances surrounding this proposal have not changed.

The plight of the potato farmer in Maine has not improved.

The proposal has continued to receive the support of both the Maine Potato Council and the National Potato Council as well.

Supporters of this legislation argue that it is essential to allow the farmer both greater freedom in marketing and better prices for his product. Opponents of the proposal hold that futures trading, and the advantages it brings, is vital to assuring a consistent market and a stable price structure for the potato crop.

Whichever side one takes on this matter, it is clear that the economic issues involved are complex and demand our attention.

Therefore, I urge that the Senate give its careful consideration to this legislation during the present Congress.

By Mr. PROUTY:

Senate Joint Resolution 104. A joint resolution authorizing the President to proclaim Thursday, November 11, 1971, as "World War I Veterans Day." Referred to the Committee on the Judiciary.

Mr. PROUTY. Mr. President, for years we all looked forward to Armistice Day on the 11th of November to celebrate the conclusion of World War I and to commemorate the great service which the veterans of that war rendered to our country.

That day has always meant a great deal in our national life. Even though the holiday is now a movable one, I still think of November 11 as the day of armistice and the day of recognition of the veterans of World War I.

These veterans have a long history of support of our Government and all that it means to our people, and they have contributed greatly in wars subsequent to World War I in all kinds of military and civilian service.

Therefore, Mr. President, I introduce for appropriate reference a joint resolution which authorizes the President to proclaim Thursday, November 11, 1971, as World War I Veterans' Day.

I do not intend that this should become a national holiday as Veterans' Day is. I do hope, however, that the proclamation which it requests the President to make would be made so as to remind our people of the great contribution these veterans have made to our country and, therefore, to us.

ADDITIONAL COSPONSORS OF BILLS

S. 395

At the request of Mr. BYRD of West Virginia, for Mr. CANNON, the Senator from New Hampshire (Mr. McINTYRE) was added as a cosponsor of S. 395, a bill to amend title 38, United States Code, in order to provide automatic cost-of-living increases and certain benefits for veterans and widows, dependents, and dependent parents of certain veterans.

S. 740

At the request of Mr. CRANSTON, the Senator from New Hampshire (Mr. McINTYRE) was added as a cosponsor of S. 740, a bill to amend chapters 31, 34, 35 and 36 of title 38, United States Code, in order to make improvements in the vocational rehabilitation and education programs under such chapters; to authorize an advance initial payment and prepayment of the educational assistance allowance to eligible veterans and persons pursuing a program of education under chapters 34 and 35 of such title; to establish a work-study program and work-study additional education assistance allowance for certain eligible veterans; and for other purposes.

S. 1437

At the request of Mr. BYRD of West Virginia, for Mr. CANNON, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 1437, a bill to amend the Airport and Airway Development and Revenue Acts of 1970.

S. 1534

At the request of Mr. HUMPHREY, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 1534, a bill to provide maternity benefits for the pregnant wives of discharged servicemen.

S. 1741

At the request of Mr. EAGLETON, the Senator from New Hampshire (Mr. McINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTROYA), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 1741, a bill to provide increased unemployment benefits compensation to Vietnam-era veterans.

THE MILITARY SELECTIVE SERVICE ACT—AMENDMENT

AMENDMENT NO. 113

(Ordered to be printed and to lie on the table.)

DRAFT REGISTRATION AND VOTER REGISTRATION

Mr. EAGLETON. Mr. President, for myself and Senators McGOVERN, MOSS, MUSKIE, PROXMIER, and RIBICOFF, I am submitting for printing an amendment that would enable young men to register to vote in Federal elections at the same time they register for the draft.

Congress last year accepted the essential justice of the proposition, "if they're old enough to fight, they're old enough to vote." The Voting Rights Act Amendments of 1970 acknowledged that prohibiting 18-year-olds from voting was "particularly unfair treatment of such citizens in view of the national defense

responsibilities imposed upon such citizens"—title III, section 301(a)(3).

The amendment I submit today to H.R. 6531, to amend the Military Selective Service Act of 1970, would make the right to vote a reality for every potential serviceman.

It would provide Federal assistance to States which want to help 18-year-olds to register to vote when they register for the draft—before they leave home—before many of them go to war for America.

It is true that the Department of Defense has directed that Federal post card applications be delivered to all qualified servicemen "in hand" during Federal election years. The great variety of State registration procedures often makes voting difficult, however. During the 1970 Texas election, some servicemen received their Federal post card application in the summer of 1970 although Texas registration had closed in January. I could not assert that all servicemen who wanted to register in my own State of Missouri were able to do so.

The States are entitled to their differences, and my amendment accommodates these differences; but people in the service of their country are also entitled to vote.

We have a responsibility to insure that no future serviceman is denied this precious right—a right he is in uniform to defend.

My amendment provides that when any person registers with the Selective Service System, he shall be informed of his right to register to vote in all Federal elections at the same time.

It also provides a "State option" provision which allows the Governor to decline such assistance by writing to the Director of the Selective Service within 30 days of enactment.

Under my amendment registration is not mandatory. It would simply be more conveniently available.

The amendment was drafted in the spirit of Federal-State cooperation, to insure that States rights are not infringed upon by the Federal Government. It would save States money by avoiding dual verification of age and by allowing federally paid officials to help register voters, a job previously paid for by the States.

It is an easy and inexpensive way to help 18-year-olds to register to vote at the same time they register to fight. I shall call up the amendment before action is completed on the bill, which is now the Senate's unfinished business.

NOTICE OF HEARING ON HIJACKING CONVENTION

Mr. FULBRIGHT. Mr. President, I wish to announce that the Committee on Foreign Relations has scheduled a public hearing on the Convention for the Suppression of Unlawful Seizure of Aircraft—Hijacking Convention—which was signed at The Hague on December 16, 1970.

The hearing will be held on Monday,

June 7, in room 4221 of the New Senate Office Building beginning at 10 a.m.

Interested parties should communicate with the committee without delay.

ADDITIONAL STATEMENTS

FIRST HONORARY GIRL PAGE, MISS NANCY MOORE THURMOND

Mr. THURMOND. Mr. President, on May 4, representatives of the pages of the Senate and the House of Representatives came to my office and presented a plaque to my infant daughter, Nancy Moore Thurmond, naming her the first honorary girl page in the history of the U.S. Congress.

I wish to take this opportunity, Mr. President, to thank publicly those page representatives and also all of the fine young pages in both Houses of Congress who cooperated in making this event possible. Mrs. Thurmond and I are extremely grateful for the thoughtfulness and the kindness which prompted this honor for our daughter, and she joins me in thanking all the pages. We are sure that when Nancy Moore becomes old enough to read, she will be thrilled at this honor, and she will treasure the plaque and keep it all of her life.

The plaque, a bronze plate attached to a shield-shaped walnut frame, bears an engraved inscription stating the following:

The Senate and House Pages hereby appoint Nancy M. Thurmond the First Honorary Girl Page of the U.S. Congress, April 1971.

The page representatives who came to my office were Rick Kunkel of Maryland, Mike Johnson of the District of Columbia, Mike Ovca of Illinois, and Randall Berens of Ohio. House Page Dan Friedman of Florida was a member of the presenting group but was unable to attend.

The other member of the page representatives, Gil Hilsman of Union, S.C., returned home prior to the ceremony and was, therefore, unable to attend.

YELLOWSTONE NATIONAL PARK COMMISSION

Mr. MANSFIELD. Mr. President, every administration, regardless of party, is at one time or another accused of giving fine sounding policy statements and grand proposals without any follow-through. This is, as they say, part of the game but, unfortunately, there are some instances at the present time which give me cause for concern. The criticism I am about to offer will seem parochial but it is very important to several Western States.

In July of 1970 the President signed Public Law 91-332 creating the National Parks Centennial Commission. The Commission was to be made up of the Secretary of the Interior or his appointee; eight Members of Congress and six members from the private sector, appointed by the President. Senators HENRY JACKSON, ALAN BIBLE, PAUL FANNIN, and CLIFFORD HANSEN; and Representatives TOM

FOLEY, ARNOLD OLSEN, JOHN SAYLOR, and JOE SKUBITZ were appointed soon after the creation of the Commission. After almost a year the President has, at long last, appointed the members from the private sector. This is less than a year away from the official centennial anniversary of one of the Nation's most popular parks, Yellowstone National Park. It would seem that the Centennial Commission has a great deal of work to do in a very short time. I fail to understand why these appointments were not made some months ago so that there would have been more time for proper planning and organization.

The Presidential appointees are Elmer Anderson, of the H. B. Fuller Co. in St. Paul, Minn., who will be the Chairman of the Commission; Henry Phipps Hoffstat, a Pittsburgh, Pa., lawyer; W. W. Keeler with Phillips Petroleum Co., in Oklahoma; Lawrence Lane, Jr., publisher of the Sunset magazine in California; Mrs. Frank Larkin of Greenwich, Conn.; and Richard P. Mellon, financier of Ligonier, Pa.

I do not question the competence or dedication of any of these appointments, but it would seem that there has been total disregard of persons from the immediate locale of Yellowstone National Park, who are intimately familiar with and devoted to the proper recognition of this great national park. I recognize that the Commission has a duty to raise private funds to match funds already appropriated for purposes of the Commission. It would seem that there might be a little more enthusiasm if there were some private representatives from the immediate area which has several of the Nation's larger national parks. In my own State of Montana, we have several who could be highly recommended for this Commission. One example is Fred Martin, publisher from Livingston, Mont., one of the more popular entrances to Yellowstone.

I would hope that this is not another example of neglect and disinterest in the problems and desires of the less populated Midwest and Western States. We have just lost railroad passenger service to larger sections of the West; funds are being held back on road construction and resource development; and there is a neglect of farm programs and curtailment of any number of Federal aid programs.

In conclusion, Mr. President, we find ourselves in a position of promoting the centennial celebration of Yellowstone National Park in less than 1 year. This park has been overcrowded with visitors in the last several years. There is a need for many improvements. Quite frankly, I do not know how they can be ready for the 1972 tourist season, especially when you consider that the administration has refused to release funds for improving roads into Yellowstone National Park and they have gone along with the discontinuances of passenger train service to this Park. This is a strange way to promote a great national park when we delay the organization of the Commission, permit the discontinuance of pas-

senger rail service and, thus, make this national park as inaccessible as possible. This is an unusual way to observe the centennial.

PATROLMEN JOSEPH A. PIAGENTINI AND WAVERLY M. JONES, OF NEW YORK CITY

Mr. BUCKLEY. Mr. President, it is with sorrow that I commemorate today two brave men who died in the line of duty in New York City on Friday evening.

I refer to Patrolman Joseph A. Piagentini and to Patrolman Waverly M. Jones, both of whom were shot in the back at about 10:30 o'clock as they responded to a call for help.

Patrolman Piagentini and Patrolman Jones joined the New York City police force on the same day, August 1, 1966. They were destined to die together on the same day, May 21, 1971, while serving the people of their city. They have given their lives as the latest victims in an accelerating wave of wanton attacks on police officers.

So far this year, seven policemen have been slain in New York City, all in the line of duty. This is the same number killed in all of 1970. So far this year, 30 policemen have been shot in New York City, all in the line of duty. During all of 1970, the total was 45; and those shot in 1970 represented a dramatic increase over 1969.

Patrolman Piagentini, who was only 28 years of age, leaves his wife, Diane, and two young children.

Patrolman Jones, who was only 33 years of age, leaves his wife, Mary, and three young children.

Patrolman Jones was buried this morning following services at Trinity Methodist Church in the Bronx.

Tomorrow morning, Patrolman Piagentini will be buried following services at St. Cyril's and St. Methodius Roman Catholic Church in Deer Park.

I extend heartfelt sympathy to the wives and to the children of these brave and good men, and to their families and friends.

May they rest in peace.

REGISTRATION OF YOUNG VOTERS IN RHODE ISLAND

Mr. PELL. Mr. President, I should like to take this opportunity to commend Mrs. Barbara Tattersall, a teacher at the Cumberland High School, Cumberland, R.I., and Mr. Edward J. Hayden, the administrator of that town for their good citizenship in paving the way for the registration of young Rhode Islanders, aged 18 to 21, in their community. I am informed that Mrs. Tattersall believed it was her civic duty to bring the mechanics of democracy to her high school and convey her idea of having a local conditional registration drive after school to Mr. Edward J. Hayden, town administrator.

Mr. Hayden was quickly convinced of the wisdom of Mrs. Tattersall's proposal and called a meeting on April 15 of 400-

seniors at Cumberland High School and spoke to them about the importance and responsibility of registering and voting. I am also told that he stated that young people should try and correct those injustices or inequities in our society by working through the system and not in opposition to it. As a first step in fulfilling their respective roles of citizens, he urged them to take this opportunity to register in order to vote. Mr. Hayden was accompanied at this meeting by the town clerk, Mrs. Agnes Tial and two clerks from the Cumberland Board of Canvassers who registered on this day over 300 of the seniors in attendance.

On May 12, about 160 Lincoln High School students followed suit and were placed on the voter roles conditionally in a special registration of those aged 18 to 21. Furthermore, it is my understanding that this registration visit to the school of the Lincoln Board of Canvassers came in response to student demand expressed through the student council.

At the present time, the Rhode Island State Legislature has passed a constitutional amendment which will be up for ratification at a referendum by the people in November and, if passed, it will enable these young Americans to fully participate in our Government.

Therefore, Mr. President, I should like to take this occasion to commend the young men and women of Cumberland High School and Lincoln High School for their active desire to work within our system and I should like to especially congratulate Mrs. Barbara Tattersall, the teacher at Cumberland High School, who originated this student registration proposal, for her well-motivated desire to make our democratic form of government work more perfectly by extending its responsibilities and privileges to our 18- to 20-year-old young Americans.

THE FARM CREDIT SYSTEM

Mr. DOLE. Mr. President, last week the Subcommittee on Agricultural Credit and Rural Electrification conducted hearings on S. 1316, the Farm Credit Act of 1971, which extends and improves the farm credit system and expands services.

It is worthy to note that during the 3 days of hearings every witness supported the legislation, although many had some recommendations for changes. The farm credit system has served our farmers well for 54 years, and it is well that we are now setting out to update the system.

The credit this system provides is as important to today's farmer as any of his tools or implements. Under Secretary of Agriculture J. Phil Campbell testified full support of the principal objectives of this legislation—the provision of adequate farm credit and updating of the farm credit law.

Mr. President, I ask unanimous consent that the full text of Under Secretary Campbell's testimony be printed in the RECORD.

There being no objection, the state-

ment was ordered to be printed in the RECORD, as follows:

STATEMENT OF J. PHIL CAMPBELL, UNDER SECRETARY OF AGRICULTURE

Mr. Chairman and Members of the Committee, I appreciate the opportunity to appear before your Committee during discussions of S. 1483—the proposed Farm Credit Act of 1971.

This bill would help provide for an adequate and flexible flow of credit into rural areas and would modernize and consolidate existing Farm Credit System law to meet current and future credit needs. The broadening of existing authorities, and the proposed new authorities, would enable the Farm Credit System to provide credit and related services for agriculture and some other aspects of rural development more effectively.

We fully support the principal objectives toward which this bill is directed—the provision of adequate credit in rural America and the modernization and updating of the Farm Credit law. However, the Administration has reservations about the possible imbalances in the competitive relationships between private lenders and the Farm Credit System which could result from the Farm Credit System entering into new fields of lending and services while maintaining current tax exemptions. Therefore, if the authorities are provided to the Farm Credit System to enter these new areas, serious consideration by the appropriate committees should be given to adjusting its tax status.

Our support of the objectives of this legislation stems from the fact that adequate credit supplies are an essential ingredient for a productive, prosperous agriculture and a more economically viable rural America. The efficiency of our agriculture, which makes it possible for the American people to be the best fed at the lowest real cost in the history of mankind, is heavily dependent upon the availability of adequate credit supplies.

The dependency of modern agriculture upon credit is well illustrated by the changes that have taken place in capital requirements for the individual getting started in farming. Thirty-five years ago a man could get started as a farmer—a competing producer—for less than \$1,000. I saw it often in Georgia. All you had to do was get a plow, a mule, or a team of horses, a hoe, and a piece of land—and you were in business.

Today you couldn't even be a subsistence farmer on those terms. The labor requirement has gone way down as the result of mechanization, electric power, commercial fertilizers, new crop varieties, weed and pest killers—but the capital requirement has gone way up.

To make a good living in farming today requires a really big capital investment. In 1970, the 600,000 farms with sales of over \$20,000—accounting for about 75 percent of U.S. farm marketings—had production assets averaging \$221,000. This compares with average production assets of about \$100,000 in 1960 for those 340,000 farms with sales greater than \$20,000.

The precise amount of capital needed today to establish a viable commercial farm will vary depending upon where the farm is located and the kind of farming to be done. But the starting farmer who wants to earn an income comparable to what non-farm people expect to earn will be faced with an investment of up to \$250,000. By the year 1980, this investment requirement will likely more than double.

The changes in capital requirements for farm operators are reflected in their total debt position. From 1950 to 1960, farmers' debts doubled—increasing from \$12.4 billion to \$24.8 billion. From 1960 to 1970, farm debt increased by 134 percent—rising to \$58.1

billion. There is widespread agreement among economists and other experts in agriculture finance that these trends will continue in coming years.

Several studies have concluded that farm debt in 1980 will likely range from \$90 billion to \$140 billion—with the most likely level closer the top of the range. Federal Reserve Bank economists, using alternative assumptions for growth in outstanding farm debt, have projected a low debt level of \$91 billion and a high level of \$137 billion. The lower projection implies that farm debt will increase about 5 percent annually, a significant slowdown from recent growth rates that averaged 9 percent. The higher projection would require annual rates of increase similar to those of the 1960's.

On the basis of these projections, the Federal Reserve Bank economists estimated that annual capital flows into agriculture during the 1970's will increase \$2 billion to \$8 billion over the average annual capital flow of recent years. And most importantly, they estimate that an increasing proportion of this flow will be financed externally by expanded use of credit—rather than internally from depreciation allowances or net farm income.

Thus, if capital requirements of agriculture are to be met in the coming years, it is essential that the financial institutions that supply agricultural credit take the necessary steps to expand their capacity to provide these credit needs.

The Farm Credit System banks and associations are a key source of agricultural credit. In recent years, they have provided an increasing share of the credit needs of American farmers. Of the outstanding farm mortgage debt provided by institution lenders, the Federal Land Banks' share went up from 28 percent in 1950 to 39 percent in 1970. On a comparable basis, the Production Credit Associations' share of non-real estate debt outstanding increased from 14 percent in 1950 to 28 percent in 1970. Most projections indicate that a similar trend will likely continue into the future.

In addition to providing farmers with an increasing share of their credit needs, the Farm Credit System is recognized as a dependable source of credit. During times of rapid economic growth, especially when money conditions are "tight", life insurance companies and commercial banks frequently reduce the amount of money going into farm loans. Funds available for farm mortgage loans are usually curtailed most sharply. During such periods, the Farm Credit banks provide a great share of farmers' credit requirements—and often expand their total lending levels.

We believe that the proposed Farm Credit Act of 1971 will enable the Farm Credit System—in conjunction with the other suppliers of farm credit—to meet the growing credit demands of American agriculture during the 1970's.

The Department of Agriculture is particularly interested in the sections of the bill that would:

Authorize housing loans to rural families at unsubsidized interest rates. This would bring additional housing mortgage credit into rural areas and supplement the program of housing loans to rural families unable to obtain credit elsewhere which is administered by the Farmers Home Administration;

Broaden the eligibility, and add flexibility to the security requirement, for Federal Land Bank loans;

Broaden the eligibility for Production Credit Association loans; and

Broaden the authority for loans to furnish farm-related services necessary to agricultural production and to provide technical assistance and financial-related services to Farm Credit System borrowers, members, and applicants.

HARRIMAN ON EUROPEAN TROOPS

Mr. MUSKIE. Mr. President, I would like to bring to my colleagues' attention a recent article by one of our Nation's most distinguished diplomats, W. Averell Harriman.

In the May 16 Outlook section of the Washington Post, Governor Harriman discusses the recently defeated Mansfield amendment from the unique perspective of a man who has been directly involved in the issue of our NATO commitment from the very beginning.

Noting that our troop commitment to NATO has extended far beyond the original intention, Governor Harriman stresses the need for a thorough reevaluation of what he terms an "unhealthy" situation.

I commend Governor Harriman's thoughts to my colleagues in the Senate, for although the Mansfield amendment has been defeated, the issue is one which we must face again in the near future and which will demand the most thoughtful deliberation for its resolution.

Certainly, Governor Harriman's views will be helpful to us in this process.

I ask unanimous consent that the article, entitled "An Unwise Reaction to Unwise Policies," be printed in the RECORD.

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

THE MANSFIELD AMENDMENTS TWO VIEWS—
"AN UNWISE REACTION TO UNWISE POLICIES"

(By W. Averell Harriman)

For the Senate to act precipitously to reduce our forces in Europe at the very moment the Soviets are offering to negotiate for a mutual withdrawal of forces would be highly irresponsible. Brezhnev stated, in his speech to the party conference in Moscow, just six weeks ago, "We stand for a reduction of armed forces and armaments in areas where the military confrontation is especially dangerous, above all in Central Europe." Again speaking in Tbilisi, Georgia, last Thursday, Brezhnev called upon the North Atlantic Treaty Organization to open negotiations, in one form or another, for mutual reduction of forces in Europe.

I can well understand the frustrations of Senator Mansfield and other senators who have been calling for the last six years for reduction in our forces stationed in Europe. I share this frustration. This administration has been cool to discussions which might lead to the withdrawal of some of our forces either by agreement among our allies or, preferably, by agreement for balanced mutual force reduction with the Soviet Union and Warsaw Pact countries.

The Soviet Union has been urging the convening of a European Security Conference which could be a good forum to discuss such a reduction. I agree with the administration that a discussion of a force reduction would be greatly facilitated if an agreement were first reached on Berlin, eliminating the most explosive point of East-West tension. However the administration has been less than enthusiastic about Chancellor Brandt's *Ostpolitik* initiative, as well as Berlin. In spite of Brandt's specific assurances there has been a suspicion that ratification of the Moscow and Warsaw treaties would turn West Germany toward Moscow rather than the Western alliance. This mistrust is shared by some of our old time cold war warriors who still live in the Stalin era. I recall a conver-

sation I had with one at the time Brandt was first launching his *Ostpolitik*. I asked what he thought about it. He replied "It is terrifying, isn't it?" NATO seems to be viewed by them as an institution to be protected for its own sake rather than as an instrument for improving the long term security of its members.

This attitude also fails to look at the other side, Moscow's relations with Eastern European countries. Take Poland. Clearly one of Warsaw's gravest concerns has been the uncertainty about its border with Germany. While this fear exists, the tendency must be to depend on Moscow. If the Oder-Neisse line is accepted and if there is other progress made toward improving relations between Poland and West Germany, Poland's dependence on Moscow will lessen and the natural desire of the Polish people to look to the West will be encouraged.

Despite Brezhnev's invitation, we cannot be sure that an agreement on a reduction of forces can be reached. But surely we should make an attempt and not throw away a position we have attained at great cost and effort.

In 1951 I was chairman of the so-called "three wise men" which included British Chancellor of the Exchequer Gaitskill and Jean Monnet of France. This committee made the first detailed analysis of the capabilities of NATO members and attempted to indicate a fair division of the burden of the forces needed. I strongly supported the stationing of our troops in Europe at that time. But it never occurred to me that we would continue to keep such large forces for as long as we have. I thought that with the extraordinary economic expansion of Western Europe stimulated by the Marshall Plan it could and would build up its forces while we would gradually reduce ours although continuing where necessary to contribute sophisticated arms.

Unfortunately, we have substantially maintained our force levels and ended our supply of weapons, except for the special cases of Greece and Turkey. This has become such a rigid tradition that any reduction of troops on our side gives credence to the feeling among Europeans that we are turning our backs to them and retreating to isolationism. This is an unnatural and unhealthy situation which should be corrected by careful handling, but is not helped by a move in the Senate to take abrupt action to cut our forces in half.

I firmly believe that the Senate should assume greater responsibility in foreign affairs but surely this requires careful consideration including full public hearings and committee reports before action.

A pressure for reduction in forces in Europe is our balance of payments crises. We have continued our forces in Europe at substantial balance of payments loss. In addition we have been engaged in the war in Vietnam without the slightest regard to its effect on our balance of payments.

Our first action should be the prompt end of our reckless expenditures in Vietnam. The slow reduction now promised by the administration would withdraw only two-third of our forces from Vietnam after three years in office. There has been no assurance given about the balance, the air support by our Navy and our Air Force stationed in Thailand, and no estimate of the vast sums needed for continued economic and military aid to the Thieu government if the Vietnamization of the war is to be perpetuated.

Because of the unwillingness of the administration to act to end the war in Vietnam I strongly endorse the suggested Congressional moves to cut off the use of funds for continuing the war if all our troops are not withdrawn by the end of the year. The polls

indicate that this has the support of the overwhelming majority of the American people. The administration is continuing the war in defiance of the will of the American people. I fully agreed with last Friday's Washington Post editorial when it succinctly asked at its conclusion, "Why Europe, why not Vietnam?"

President Nixon maintains that the alternative to support of his continuation of the war in Vietnam is neo-isolationism. He is wrong. The fact is that continuation of the war is turning more and more people in their frustration toward isolationism. The action proposed in the Senate precipitously to reduce by half our forces in Europe is an unwise reaction to his unwise policies in Indochina.

A RESOLUTION CONCERNING VESSELS TO FLY THE AMERICAN FLAG

Mr. THURMOND. Mr. President, the city council of our fine city of Charleston has passed a resolution memorializing Congress to assist and provide more vessels to fly the American flag.

Inasmuch as we have chosen to relinquish our country's position as a world leader in air transportation, I think we should not also relinquish our position on the high seas. As this resolution points out, the number of ships displaying the American flag on the waterways of the world is rapidly decreasing and the great American passenger fleets of past years are all but nonexistent.

Russia, on the other hand, is the fastest growing maritime nation on earth and is well on the way to becoming the world's leading maritime power. In July of 1969 the Russians had 397 merchant ships under construction and the United States had only 57 under construction. I believe that a strong maritime fleet is of great importance for our defense position because all major conflicts between nations involve the sealanes of the world, and our military must be backed up by a strong maritime transport capability; this capability is our fourth arm of defense.

I believe that the resolution presented by the city council of Charleston calls our attention to a pressing need from the standpoint of national economy and national defense, and I believe that Congress should give this resolution its most careful consideration.

Mr. President, on behalf of Senator HOLLINGS and myself, I ask unanimous consent that this resolution be printed in the RECORD.

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

A RESOLUTION

Whereas, American History and the History of the World are resplendent with and distinguished by the deeds of American vessels operating on the high seas both in war and in peace; and

Whereas, it is with patriotic sorrow that the City Council of Charleston, South Carolina views the serious loss of elements of the American heritage through the gradual though continuing decline over the past years of ships flying the American Flag and considers it necessary to resume our former prestige in the eyes of the World; and

Whereas, it is with further grief and alarm that the City Council views the almost non-existent remnants of the great American passenger fleets of the past; and

Whereas, the City Council desires to see and believes it necessary for America to resume its rightful place as the leader of nations on the high seas of the World;

Now, therefore, be it resolved that the City Council calls upon the Congress of the United States to assist and provide more vessels to fly the American Flag; and

Be it further resolved that a copy of this Resolution be forwarded to the South Carolina Congressional Delegation.

TERMINATION OF THE SUPERSONIC TRANSPORT PROGRAM AND REFUND OF AIRLINES' CONTRIBUTION

Mr. BYRD of West Virginia. Mr. President, the distinguished Senator from Washington (Mr. JACKSON) is absent from the Senate on official business.

I ask unanimous consent to have printed at this point in the RECORD a statement prepared by him relative to the SST and the supplemental appropriations bill.

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

THE SST AND THE SUPPLEMENTAL APPROPRIATIONS BILL

(Statement by Senator HENRY M. JACKSON)

Mr. President, I deeply regret that the House of Representatives on Thursday, May 20, voted to delete the \$155.8 million approved by the Senate and by the House-Senate Conference on May 19 for the termination of the Supersonic Transport Prototype program and for refund of the airlines' contribution of \$58.5 million. I am, however, gratified that the House did, by voice vote, restore \$97.3 million for payment of the contractor's termination costs.

As the Chairman of the Appropriations Committee informed the Senate on May 21, it appears that there was confusion in the House as to the background and as to the purpose for which the \$58.5 million was to be used and as to the Federal government's liability to refund the money to the airlines. It is my view that in view of the Senate's adoption of the Conference Report yesterday the Congress should, after hearings on the subject, refund the airlines' contribution as a part of the regular Department of Transportation bill when it is considered next month.

The airlines' investment in the program was made in good faith and the government has had the benefit of the \$58.5 million. In my judgment, the action of the Congress in unilaterally terminating this program was unwise as a matter of national transportation policy, unsound economically, and foolish from a scientific and technological point of view. I do not feel the airlines should be penalized for having made a contribution to the development of a new transportation system when the program is terminated at the sole convenience of the Federal government.

The ill-advised decision to terminate this program was based in part on the argument that private enterprise should pay all of the research and development costs. Ironically, after many members of the Congress accepted this argument and after the Senate voted to terminate the program, the Congress now finds itself in the position of denying the refund of a \$58.5 million investment which private enterprise made in the program. I

suspect that the next time the Federal government goes to private enterprise and urges a "partnership" approach with the investment of private funds in the development of new technology, the reception will be less than cordial.

It is probable that if this decision stands as precedent, one of two things will happen: *First*, government will have to pay *all* the R and D costs of developing areas of new technology; *or second*, where R and D costs are beyond the resources of a single corporation to finance, the technology simply will not be developed, regardless of the public interest in the matter.

The larger question raised—the proper role of the Federal government in developing new technology—is one of the most important facing the country today. I regret that it has become involved in the hysteria, the emotion, and unanalytical discussions and debate which have surrounded the Supersonic Prototype program for the past year.

If this country is to develop the technology necessary for revolutionary advances in transportation, in desalination, in providing clean energy, and in dealing with environmental problems, there must be governmental involvement. In many areas, industry cannot pay all of the costs associated with research and development of new technology. In most areas, in terms of manpower, expertise and facilities, government is simply not equipped to go it alone.

Mr. President, the loss in jobs, in potential exports of aircraft, in spin-off technology and in national stature resulting from the unfortunate SST termination decision is a national disgrace in public decisionmaking. It represents a low-water mark in science policy and in the ability of the Congress to analyze programs, to weigh costs and benefits, to assess the impact of trade-offs and to advance our national goals.

Mr. President, I regret that because of a previous commitment to conduct field hearings on the environmental impact of power plants in the Four Corners region of the Southwest, I was unable to be on the Senate floor for yesterday's vote on the supplemental appropriations bill. If present and voting, I would have voted to reconsider the May 21 vote on adoption of the Conference Report, which did not provide for reimbursing the airlines for their investment in the SST program.

To complete the record, I should add that had I been present and voting when the Conference Report was first brought before the Senate on May 21, I would have voted against adoption of the Conference Report and would have voted against the motion to table the motion to reconsider the vote by which the Conference Report was agreed to.

TIME TO CALL McNAMARA

Mr. GOLDWATER. Mr. President, as we prepare to engage in another round of debate over the national defense budget I believe we can expect the critics of the American Military Establishment to use every possible argument in their attempt to cut anywhere from \$7 to \$20 billion from the amount the administration believes necessary to the defense and security of this Nation.

One of the tools for this attack has already been published. It is a book written by Mr. Berkely Rice entitled "The C-5A Scandal: An Inside Story of the Military-Industrial Complex." And, Mr. President, I believe, the way the book was reviewed by Bernard D. Nossiter in the Washington Post of May 20 is a fair ex-

ample of how the volume will be used. In this instance, Mr. Nossiter used the space allotted for a book review to air his own feelings about the C-5A and indicate that there are many examples of defense contracting that are much worse.

Of course anyone who read the review to find out what Mr. Rice had to say was certainly doomed to disappointment. He had to be satisfied with Nossiter's own slanted account of the C-5A situation and one paragraph at the end of the review which said:

Berkely Rice, a free-lance writer, has pulled together much of the C-5A story that has appeared piecemeal in a few of the public prints. His account is readable, confident, and appropriately despairing.

Mr. President, there are several things about the book and about the review which I think should be noted by the Members of the Senate. The first is that the book is interesting, even though it is highly biased against the Defense Department. If the reader can discount the prejudice of the author he can find many facts which should prove interesting.

But although the book and Mr. Nossiter's critique offer the C-5A as a model of boondoggling and faulty military procurement, neither of them point out that the whole thing began and matured under the Pentagon regime of Defense Secretary Robert McNamara.

For some reason, Mr. President, the liberal authors and reviewers and congressional criticism seem curiously reluctant to place the blame for the waste and inefficiency which reached its high tide of impropriety in the McNamara era exactly where it belongs. The procurement system which led to such things as the cost overruns which we are now seeing in Defense contracts was devised by former Secretary McNamara and his civilian advisers and cost accounting experts in the Pentagon. But we never hear anything from Mr. McNamara. We have time and again argued about the greatest boondoggle of all times—the TFX scandal—and similar situations which occurred during his tenure but never is Mr. McNamara called to testify. I personally have repeatedly asked the gentleman from Wisconsin, Senator PROXMIRE, to call Secretary McNamara as a witness during his prolonged committee hearings on waste, inefficiency, and extravagance in the Pentagon. On one occasion, I believe the Senator from Wisconsin told me that his committee had extended an invitation to the former Defense Secretary but that Mr. McNamara felt his duties as President of the World Bank would not permit him the time required.

Mr. President, I believe Mr. McNamara owes the Congress and the American people some kind of an explanation as to why his highly publicized system of "cost effectiveness" in the Defense Department turned into the mess that our Senate liberals keep telling us exists in Defense procurement. Certainly, if I were Mr. McNamara I would be eager to defend my stewardship. Far from being too busy, I think I should have been demanding an opportunity to be heard from the very

first time that the charges of widespread waste and inefficiency and scandal were raised.

PIPELINE SAFETY AND THE WAITING GAME

Mr. PROXMIRE. Mr. President, 1 week ago I wrote to Joseph Caldwell, Acting Director of Pipeline Safety in the Department of Transportation, asking that his office investigate a pipeline safety case in Oklahoma.

I have not even received the usual reply—thanking me for my interest and promising prompt attention. That is all right with me. I am not looking for pleasantries. I am looking for action.

A professor of engineering at the University of Wisconsin examined radiograph sections of this line and found at least 47 unacceptable welds just in the X-rays he saw.

The May 6, 1971, edition of the Washington, Mo., *Missourian* has an editorial which boils away the fat from this issue and concludes with the following statement which is the crux of the matter:

Some day we may get laws with teeth to regulate pipeline companies, but possibly not before a few more homes are blown into Kingdom Come.

Mr. President, I ask unanimous consent that the editorial be printed at this point in the RECORD.

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

"DAVID" WITHOUT A SLING SHOT

One man and his fiery wife in Oklahoma have taken on the pipeline industry, and have made themselves felt in places where it counts. But will they be able to make themselves felt enough to bring about a needed change? That's the question.

It's like "David fighting Goliath without a slingshot," says the man's wife.

The couple, Mr. and Mrs. Charles Baker of Collinsville, Okla., have good reason to fight. They have gained a great deal of support around the country, especially from people living near pipelines, but it takes more than goodwill and support to fight a giant industry with unlimited funds and a battery of lawyers, who have a way of recruiting and influencing witnesses to testify in their behalf!

The Bakers have a 131-acre farm near Collinsville. He is a welder. A 20-inch high pressure line runs through their vegetable garden, and is only 234 feet from their farm home.

Mr. Baker has charged that the pipeline companies are burying "time bombs" all over the country, and says somebody "has got to shake up this industry."

He also charges that the line through his place is full of defects. The walls are too thin, the welds are shoddy, and the wrappings are unsafe. Mr. Baker says he has pictures to prove it. He says the line could explode at any time. He considers it so dangerous that he moved his family away from the farm home!

The U.S. Office of Pipeline Safety sent a special investigator to Collinsville to check into the charges. He reported he found "no violations," and called "the case closed."

But, reported the Wall Street Journal in its issue of April 29, the case isn't closed. It's just getting off the ground. Politicians in high places are beginning to wonder and ask questions. Besides the Ralph Nader group has stepped into it.

There are a good many people in Franklin county who will be happy to learn that the fight against pipelines is not only going on, but is gaining momentum. Already hearings have been held, and others are proposed. The matter may be aired in a Senate hearing before much longer.

The people in the Beaufort neighborhood will be particularly interested to learn that the Bakers have challenged the pipeline companies on the question of "eminent domain."

It would be difficult to imagine that a powder company would have the right of "eminent domain" to plant a bomb on private property, yet that's what the pipeline companies are doing. The blast early last December in the Port Hudson area equaled the force of an entire bagful of ordinary bombs!

Reuben Robertson of the Nader group was quoted in the Wall Street Journal as saying the Bakers have raised some deep and fundamental questions that reach far beyond their own case.

Mr. Robertson, as quoted in the Journal, wondered "why the government seems to make all presumptions in favor of the pipeline companies instead of the individual citizens."

He also wondered "why should individual citizens such as the Bakers have to bear the burden and expense of proving that a line is unsafe, rather than the other way around, when there are agencies" to do this, paid for by the taxpayers!

The people in the Beaufort and Port Hudson areas also would like to get the answer to these basic questions. Why should they have to carry on the fight, and pay the cost of the fight to save their homes from a potential "time bomb"?

Both Sen. Stuart Symington and Congressman Bill Hungate have taken a deep interest in this matter. They want to know where the government stands on this problem, and what it proposes to do about it.

Some day we may get laws with teeth to regulate pipeline companies, but possibly not before a few more homes are blown into Kingdom Come!

PROBLEMS OF RECONSTRUCTION OF VIETNAM AFTER THE WAR

Mr. HATFIELD. Mr. President, I should like to commend to the Senate a speech of Senator WALTER MONDALE which he gave to the Baptist National Convention on May 14. He seeks to stimulate thought on the problems of reconstruction of Vietnam after the war is ended and American troops have departed.

The Senator has my gratitude for providing the needed incentive in calling for research by Far East experts, and I am certain that other Members of the Congress will want to find a forum for offering constructive suggestions to the executive branch and committees of Congress on this subject.

Senator MONDALE's thought that an international conference be called is a useful suggestion. In such an event, however, the United States should in no way attempt to dominate or seek to influence the outcome, as has been our tendency in years past. Rather we should provide the research assistance, the technical expertise which is needed and which is asked for.

I ask unanimous consent that these remarks be printed in the RECORD.

There being no objection, the remarks

were ordered to be printed in the RECORD, as follows:

REMARKS BEFORE BAPTIST NATIONAL CONVENTION

(By Senator WALTER F. MONDALE)

You asked me tonight to speak about peace and justice in the international community.

That was a generous choice of topics. We could talk of so many urgent needs—peace in the Middle East . . . an end to the savagery in Pakistan . . . justice for the victims of racial tyranny in Southern Africa . . . justice for the Arab refugees in the Middle East.

But nowhere tonight are the human stakes in peace more pressing—nowhere in the healing of justice more needed—than in the devastated lands of Indochina.

I could talk about the Indochina we all know too well—

The towering illusions and senselessness of the war.

The promises unmet in Paris and the blunders hidden in Laos and Cambodia.

The corruption of the Saigon regime and the barbarity of North Vietnam toward American prisoners.

And not least, the scarred and crippled young veterans who came to Washington a few weeks ago to turn in their silver stars and purple hearts . . . because they wanted this country to be through with the whole soul-destroying mess.

As for that Indochina, I think our obligations are clear.

We have more than met our military duty to the defense of South Vietnam. We now have a duty to ourselves to bring our men home.

But beyond the taudry glitter of Saigon or the demonstrations in Washington, there is another Indochina—an Indochina seldom mentioned in Congress or by the Administration.

It is a land of fallow paddy fields, napalmed villages and defoliated forests—of bombed out schools and hospitals, and too many orphanages; of miserable resettlement camps for literally millions of refugees; of broken bodies and scarred minds; and of mute scenes of forgotten skirmishes.

I could talk to you of the tragedy in all this. But I would rather speak of hope.

I believe we have an obligation to rekindle hope in this Indochina—an obligation which can begin even as our troops leave. And in that—as much as in any act of arms—we will be nourishing our own hope for international peace and justice.

What I am suggesting is that we finally begin to turn our attention from the horrors of this war to a grand effort of peaceful reconstruction in Southeast Asia.

President Johnson proposed such an effort six long years ago in an address at Johns Hopkins University.

"Neither independence nor human dignity," he said, "will ever be won . . . by arms alone. It also requires the work of peace."

But the drums of war drowned out those words.

It is time to muffle those drums . . . and hear the cries of the children of Indochina.

The task will be enormous.

Even before the devastation and anguish brought by the war, most of the people of Indochina lived out a dreary cycle of want—malnourished, ill-housed, prey to disease, and facing death before 40.

The countries of Indochina were largely impoverished agrarian societies. The billions we have spent thus far in the name of helping them have done little to change that.

And in many ways, the war has made matters so much worse.

It has done irreparable harm to the village and family structure which were the foundations of life in rural Indochina.

A recently returned American observer (Don Luce) has estimated that more than one third of the Vietnamese people have been refugees.

Before the war more than 80 percent of the population was rural. Now it is 50 percent.

The family unit has been fragmented. The kinds of work the new urban population have been forced to do has wrenched the Vietnamese economy from agricultural pursuits to service functions. Yet no significant industrialization has taken place.

When the American military establishment departs, as it soon must, some of the older people will go back to the war-torn countryside. But what of the young who have no roots outside the cities? What will they do?

We have created in these newly urban masses, a well-paid proletariat, an American dependency. There is nothing to take our place when we are gone.

Nothing, that is, unless we begin to think and talk and formulate some meaningful alternatives to the economic and social vacuum which our military departure will create.

The problems are of a different order in Cambodia or Laos or North Vietnam, but they are just as compelling.

The technology that stripped bare the forests of Indochina must be put to work to bring farms back to life.

The organizational skills and money that mobilized more than a million men to fight a war can put them to meaningful work in building peace-time economies.

None of us can lay out a plan assured of success. The obstacles are too formidable for optimism. We would be unlearning all the lessons of this war, if we did not admit the incredibly complex political and human obstacles which will stand in the way of a reconstruction program.

We should never forget the pretensions that took us into this war.

We thought that we could shape the politics of Vietnam.

Then we thought that we could roll back with weapons an indigenous political movement that enjoyed wide support in South Vietnam.

And then we thought that we could destroy enough of that land to change the

We succeeded only in destroying. We proved only that we were terribly wrong and that we couldn't decide their destiny for the people of Indochina.

But if we can combine the wisdom won through that folly and the energy and resources we brought to the war, we can help lay the framework for an enduring peace.

And we can be no less ambitious in that than we were in the work of destruction.

First, this could not be a unilateral American effort. We have had enough of that, and so have the people of Indochina.

Other countries have played significant roles in the conflict in Indochina, and they should also be involved.

The People's Republic of China, the Soviet Union should participate. The neighboring countries of Malaysia, Thailand, Burma, Indonesia and perhaps even India and Pakistan, should be brought in. Japan, which is assuming an important position in international regional affairs should be a participant at an early stage.

Even more important, it must be the victims of this war—South Vietnam, North Vietnam, Cambodia, and Laos—who will play the major organizational and managerial role in their own development. Again, if this war has taught us anything, I would hope that it is that no outsider can make their decisions for them.

How could it begin?

Here in the United States, perhaps, a bipartisan, bicameral group in the Congress

like the Members of Congress for Peace Through Law might examine the situation in Indochina and the possibilities for organizing an initial research effort in consultation with the Executive Branch. President Johnson's Johns Hopkins speech of April 5, 1965 might be a good point of departure. And President Nixon supported this concept in his Foreign Policy Message to the Congress last year.

After preliminary work, an international conference could be called to determine the overall goals for a South East Asian Development Association. Invitees could include all the nations of Indochina, China, Japan, Australia, New Zealand, the Philippines, the Soviet Union and other countries in South and Southeast Asia.

The site for such a conference could be determined through consultation. Perhaps two conference sites could be selected initially, one in a major non-Communist capital in the region—Tokyo, Bangkok or Djakarta.

I think it might be appropriate for the other to be in Peking.

Such a conference could discuss broad plans for the reconstruction of Indochina and its economic reintegration into the economy of the region.

Each participating nation, aside from those of Indochina, could contribute funds. The programs could be administered by a joint council with a revolving chairmanship made up of the Indochinese members.

As for the U.S. contribution, we might start with a percentage of the total amount this country has spent in war efforts in Indochina since 1961. If that figure were to be only one percent, the total would be \$1 billion.

And that would be only a start on the needs of reconstruction. Others would also have to give generously.

The organization, for example, could maintain a coordinating secretariat in Tokyo. Japan could thus be brought into the mainstream of the plan. That strikes me as altogether fitting, since the Japanese have profited more than any other Asian nation from this war.

Of course, other major offices should be located in the nations of Indochina.

A possible point of departure for the organization's efforts might be the Mekong Valley Authority plan proposed by President Johnson and endorsed by President Nixon as well. This would underline the bipartisan nature of the American involvement in the plan.

It would be essential that there be no military assistance component in this multilateral effort. I realize that military aid may be an unfortunate necessity for the security of the countries involved, but this could be much better handled through bilateral aid mechanisms.

I can see a number of regional organizations which might be established under the direction of South East Asian Development Association. These could include:

- An Agricultural Research Institute;
- A Public Health Organization;
- An Industrial Development Corporation;
- An Agricultural Commodities Bank;
- An Export-Import Bank, and
- A University Center along the lines of the East-Wide Center of the University of Hawaii.

Certainly none of these suggestions should be taken as firm or binding. What I have been trying to do is to stimulate ideas. Each country will inevitably have special problems and needs which are not always amenable to multilateral efforts.

Ultimately, the decisions are with the nations of the area.

But perhaps these thoughts are at least a start in the right direction.

In any case, we must confront both the problems and the opportunities.

A generation in Indochina has not known what it was like to sleep without fear of terror or the sound of bombs. A generation of peasants has not been able to walk out in their fields without searching the skies or hillsides or undergrowths for the threat of death.

And that fear and misery and bitterness will never make the generation of peace all of us—critics and supports of the Administration alike—want so desperately for our children.

John Kerry, the leader of the Vietnam Veterans Against the War, said it eloquently before the Senate Foreign Relations Committee. The people of Indochina want, he said, "... to be fed, to bury their dead in plots where their ancestors lived, to be allowed to extend their culture, to try and exist as human beings... I think we have a very definite obligation to make extensive reparations to the people of Indochina."

And President Nixon said it in a speech to the United Nations in 1969:

"When the war ends, the United States will stand ready to help the people of Vietnam—all of them—in their tasks of renewal and reconstruction. And when peace comes at last to Vietnam, it can truly come with healing in its wings."

In this common effort, we can bind up not only the wounds in Southeast Asia, but also perhaps the divisions the war has created in America.

And if we truly believe in international peace and justice, we can do no better—and no less—than to try.

GROWING OPPOSITION TO LOCKHEED BAILOUT

Mr. PROXMIRE. Mr. President, the current issue of Time magazine contains an excellent article about the administration's proposed bailout of the Lockheed Aircraft Corp. The article raises a number of critical questions which Congress will have to decide about the proposed \$250 million loan guarantee.

The article points out that a Government loan guarantee to rescue Lockheed could set a dangerous precedent for our economy by propping up poorly managed firms. Moreover, the article indicates that the Lockheed guarantee would be unfair to Lockheed's competitors, notably McDonnell-Douglas and Boeing.

Finally, Mr. President, the article suggests that a Lockheed failure would likely increase U.S. employment rather than decrease it as the administration contends. This is because McDonnell-Douglas would pick up most of the orders for the Lockheed L-1011 airbus. Since the McDonnell-Douglas plane, the DC-10, uses the American built GE engine rather than the foreign built Rolls-Royce engine, at least 10,000 additional jobs will be created throughout the United States. Mr. President, I ask unanimous consent that the Time magazine article be printed in the RECORD.

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

SHOULD LOCKHEED BE SAVED?

The U.S. Government is being confronted with a major and difficult question of principle—and practice—involving the nation's way of doing business. Lockheed Aircraft Corp., the biggest defense contractor, is in a deep cash crisis, and it is looking to Uncle Sam for a bailout. The company wants Con-

gress to authorize an unprecedented federal guarantee of a \$250 million loan to save its wholly commercial L-1011 plane, a medium-range "airbus" designed to carry 250 passengers. If Congress refuses, the company's management warns that Lockheed will skid into bankruptcy, upsetting a business empire that employs 75,000 people in 26 states. This would add to the unemployment rolls, particularly in California, and dim President Nixon's chances of carrying the state in 1972.

The Nixon Administration has made a command decision to save Lockheed. Having sent to Congress a bill to authorize the loan guarantee, President Nixon has assigned Treasury Secretary John Connally, a relentless persuader, to lead a hard-sell campaign on Capitol Hill. Hearings on the issue are scheduled to begin June 7, and there will be many dramatic confrontations before the final vote is taken, probably at the end of July. At the moment, a slim majority in Congress appears to favor the guarantee, though with much reluctance. As a price for it, California Senator Alan Cranston, a Democrat, demands the firing of Lockheed's chairman, president and board of directors. Indeed, Lockheed Chairman Daniel Haughton told Time Correspondent Jerry Hannifin last week that he is willing to step down. Said Haughton: "The management is more interested in Lockheed's survival than in any jobs, and that starts with me."

EXPENSIVE BURIAL

Haughton and other Lockheed chiefs argue that failure to back the loan for the three-engine L-1011 TriStar would be an economic disaster. Without this support, they say, most of the \$1.49 billion already invested in the plane will be lost. Subcontractors have already spent \$350 million on it, and the airlines have advanced \$240 million in progress payments. Lockheed has poured in \$900 million, including \$400 million in loans from a consortium of 24 banks led by California's Bank of America and Manhattan's Bankers Trust.

Connally contends that it would cost more to bury Lockheed than to sustain it. Without giving specifics, Administration officials maintain that if Lockheed fails they will have to renegotiate some of its defense contracts with other producers, and probably be forced to pay more. In trying to find precedents for helping Lockheed, Connally mentions the Reconstruction Finance Corp., which made loans to troubled but solvent companies from Depression days through 1953. Yet these loans were limited to \$500,000, and theoretically they were available to all firms, not only those with special clout. In asking for help now, Lockheed has noted that in 1967 the Government guaranteed a \$75 million credit for Douglas Aircraft before it merged with McDonnell, but this money was specifically earmarked for defense work and not a commercial venture. As Lockheed, in its widely distributed position paper, says of its own request: "There is no full precedent for this."

Should Lockheed get special treatment? Surprisingly, there is little support in the aerospace industry, except from Lockheed itself, for the loan guarantee. Lockheed's rivals resent the Government's supporting a company that they believe has been grossly mismanaged—a high-cost, undercapitalized producer. Aerojet-General President Jack H. Vollbrecht contends that help for Lockheed would mean that "if you fail big enough, you don't fall."

Lockheed has also built up a reservoir of ill feeling in the industry because many rivals believe that it has often used abrasive competitive tactics. It has a reputation of "buying in" on Government projects, bidding unrealistically low on the assumption that

once the contract was landed, the costs could be renegotiated upward. On Lockheed's C-5A military transport alone, the Government has laid out an extra \$1.3 billion to pay for "cost overruns." Still, Lockheed last year managed to lose money on the C-5A and three other major military contracts.

BAD JUDGMENT

On the L-1011 project, Lockheed's top managers contend that they have been victimized by events beyond their control. They had contracted with Britain's famed Rolls-Royce to build the plane's engines; at the time, Rolls-Royce greatly underbid its American rivals for the award, and the deal was widely thought to be a coup for both companies. But Rolls-Royce also had done some "buying in," and when development costs jumped far beyond estimates, the company fell into bankruptcy. After months of negotiations, the British government agreed to spend up to \$312 million to complete the engine's development and get it into production. Lockheed consented to buy 555 engines and increased its purchasing price for each one by \$180,000, to about \$1 million. To ensure that Lockheed would remain in business as a customer, Britain also demanded that the U.S. Government guarantee the company's bank loans.

Rival aerospace men now argue that Lockheed judged badly in choosing a foreign producer to develop a complex new engine at an unrealistic price. Moreover, in the view of many American businessmen, the British government failed to make enough of an effort to honor foreign commitments after the company went bankrupt and the government took over. As a result, the prestige of British industry in the U.S. has been hurt more than is generally recognized. U.S. engine makers believe that a loan guarantee would be an undeserved rescue of Rolls-Royce as well as of Lockheed.

DELIVERY DELAYS

In any event, it is doubtful that the L-1011 will ever be profitable. Increased engine costs will boost its price to customers by at least \$540,000. In 1968, during the early development stages of the plane, Lockheed's price for TriStar was \$15 million; inflation and the Rolls debacle have kicked the price skyward. TWA reports that it expects to pay slightly more than \$18 million for the airbus. The estimated price for a strikingly similar new plane, the McDonnell Douglas DC-10, will probably be at least several hundred thousand dollars less. Lockheed must sell an estimated 350 of its big planes to recoup its development costs; so far it has orders for 178. Meanwhile, Boeing has completed the design for a stubbler version of its 747, called the 727X. If the Lockheed plane is shot down, Boeing may move into the medium-range market to compete against McDonnell Douglas' DC-10.

Lockheed has managed to hold its customers despite the delays and price rises, partly because they have already sunk so much into the L-1011. Should it be scrubbed, they would be among the losers. Eastern has put up \$68 million. Delta \$34 million. TWA, which has advanced more than \$100 million to Lockheed, might be forced into a merger. Unpalatable as the prospect seems, it could prove a benefit to TWA, which last year suffered losses of \$64 million. One or more mergers would ease the profit pressures in the stiflingly crowded and overly competitive airline business.

PROPS AND PRIVILEGE

Despite Lockheed's dire predictions, it is by no means certain that the company will "go down the tubes" unless Congress votes the loan guarantee for the L-1011. Whatever the bankers say now, they may agree to put up more money rather than let their invest-

ments evaporate. Even if Lockheed is pushed Court-appointed trustees would take over the company; they would probably seek a merger or sell some or all of Lockheed's several profitable divisions to more efficient and affluent contractors. Except for the L-1011, almost every major project would survive. Lockheed had assets of \$1.3 billion in 1969; they are less today and would be diluted further in any liquidation, but a part would ultimately trickle back to the bankers and airlines that have advanced money to the company. Shareholders would be at the end of the line and stand to collect little if anything, but those are the risks of capitalism. Avco, Sperry Rand, United Aircraft and other subcontractors, which have invested much to tool up for the L-1011, would also get little from the liquidation. But some might win new orders as a result of the expanded demand for the McDonnell Douglas DC-10 or Boeing 727X. Few of the suppliers are so weak that they would go under.

The hardest-hit victims would be the 9,700 workers employed on the L-1011 project at Lockheed's Burbank and Palmdale plants. Many have already been hurt because work on the L-1011 has been cut back by 50% since the Rolls-Royce collapse; some would get jobs at the McDonnell Douglas plant in nearby Long Beach, where the DC-10 is being built. There would likely be more hiring by Boeing as well as McDonnell Douglas, and by their U.S. engine makers, Pratt & Whitney and General Electric. Thus, while a failure of the L-1011 would cause unemployment to rise in parts of Southern California, it would create more jobs in other sorely pressed areas from Connecticut to Washington State.

Most important, a Government guarantee of a loan to rescue Lockheed could have some dangerous complications in the future. The Government would set a precedent of propping up a poorly managed company at the expense of its more efficient rivals, giving Lockheed and Rolls-Royce special competitive privileges in markets that may well be better—and more cheaply—served by McDonnell Douglas, Boeing, General Electric and Pratt & Whitney. By contending that Lockheed is too important to be allowed to fail as the result of a commercial project, the Government gives itself vast new powers to determine just which firms are "important" enough to survive. Should military contractors be given precedence over civilian companies? Should big firms be favored over small? For an Administration that champions free enterprise, there is yet another question: How deeply can the Government intrude in the marketplace without bending the whole system out of shape?

NUCLEAR ARMS TALKS

Mr. HANSEN. Mr. President, this morning's Washington Post printed a column by William S. White which makes some important observations of which all Members of the Congress should be aware.

Mr. White's subject was the recent announcement by the President of a "major step in breaking the stalemate on nuclear arms talks" with the Soviet Union. This announcement was warmly greeted by all of us who long for peace and security in this nuclear age. However, Mr. White wisely points out that the President's announcement is of an agreement between the two nations on where to begin talks. The substantive talks leading to an agreement on disarmament are yet to begin.

In the meantime, as William S. White

reminds us, this is not the time to abandon our policy of preparedness which was so painfully decided in the last Congress. The President's policy of preparedness was upheld by the Senate during the ABM votes by only the slightest margin. I remember well during the debate on the ABM the President's position that the United States must deal from a position of strength and that a commitment to the ABM system was an essential bargaining chip if the United States and its people were to expect the Soviet Union to agree on any arms limitation standards.

The recent "breakthrough" at the SALT talks underscores the wisdom of the President's position. But we have a long way to go. Shortly the Senate will again be considering the appropriation of funds for the vital ABM defense system. It is my hope that this body, in recognition of the recent progress in disarmament talks resulting from the President's strategy, will strongly endorse the philosophy of bargaining from a position of strength and not a position of unilateral disarmament.

Mr. President, I ask unanimous consent that the article entitled "ABM Played Role In Arms Accord," written by William S. White be printed in the RECORD.

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

[From the Washington Post, May 25, 1971]

ABM PLAYED ROLE IN ARMS ACCORD

(By William S. White)

There is both a good deal less and a good deal more than meets the eye in President Nixon's widely trumpeted announcement of a "major step in breaking the stalemate on nuclear arms talks" with the Soviet Union.

As to the first point, what has really been agreed to is only a somewhat ambiguous beginning of negotiations toward a possible end that can have no effect on the existing reality that the Russians may well have already outstripped us in the weapons of ultimate horror and are still working at the job.

Putting the thing in its most rosy possible light, the President's statement—which concedes that any concrete deal actually limiting strategic arms is a very long way down the road—should be read by the country and its allies with the greatest of reserve.

Thus proclamations such as that of the House Republican leader, Rep. Gerald Ford of Michigan, that all this is clearly one of the most significant breakthroughs for peace in modern times, are, to put it charitably, among the overstatements of modern times.

Still, even a creeping progress toward honest disarmament is not to be sneered at by rational men. And this the administration can rightly claim.

For what is much more significant than the somewhat debatable substantive value of the achievement of an understanding with the Russians to begin to talk seriously upon SALT (strategic arms limitation) is, simply, the flat vindication here offered of the essential wisdom of the administration's long-term general strategy in this affair.

The heart of that strategy has been to present the Soviet Union with proof positive, in advance, that we did not and do not intend to talk from any position of deliberate weakness. The tangible token of this strategy, in turn, has been the President's resolute and finally successful demand for the creation of an antiballistic missile system.

This system he was at last able to bring

through a reluctant Senate only last summer—and only by a margin of two votes. The long and short of it is that without having ABM in his pocket, he could never have got the Russians to the point of agreeing to talk of anything beyond sheer gobbledegook.

It is instructive to recall that Mr. Nixon himself made precisely this point again and again in the long Senate debate over ABM. Give me ABM, he said to the doves in substance, and I shall have some bargaining chips for the great disarmament for which all of you are so loudly crying out.

The doves retorted that this was nonsense; that the only possible way to get going was for the United States to begin to disarm itself unilaterally, whatever the Russians might do, and then the Russians would see that we were good fellows and would immediately follow suit.

So it is that however modest may be the forward step now taken there would have been no step at all without ABM.

The bipartisan Senate supporters of the President will not miss the meaning of this reality when they begin the debate upon the military budget, which is likely to occupy many weeks. For it is perfectly obvious that a certain euphoria helpful to the budget-slashers is going to be at work in the country generally, following upon the new agreement with the Russians. And this can be fought successfully only if the pro-preparedness Senators go back to the record to show who was right and who was wrong last year on ABM.

In this, they ought not to have much trouble. They will only have to quote such Democratic presidential aspirants and vehemently anti-ABM men as Sens. Hubert H. Humphrey, George McGovern and Edmund Muskie. They might also cite the apparently noncandidate who is Sen. Edward Kennedy and the nonstop pacifist who is Sen. J. William Fulbright of Arkansas.

"As a bargaining lever for disarmament," said Fulbright, "The ABM is likely to be as effective as gasoline shot through a fire hose."

MOON LANDING—THE CHALLENGE AND THE ACCOMPLISHMENT

Mr. CANNON. Mr. President, 10 years ago today, President John F. Kennedy stood before a joint session of the Congress and urged the Nation to:

Commit itself to achieving the goal, before this decade is out, of landing a man on the moon and returning him safely to earth.

He went on to say:

No single space project in this period will be more exciting, or more impressive to mankind, or more important for the long-range exploration of space; and none will be so difficult or expensive to accomplish . . . let it be clear that I am asking the Congress and the country to accept a firm commitment to a new course of action—a course which will last for many years and carry very heavy costs. . . . If we are to go only halfway, or reduce our sights in the face of difficulty, in my judgment it would be better not to go at all. This is a choice which this country must make . . .

Mr. President, we made that choice and we did what we set out to do. I think it is appropriate for us to remember the challenge and the vision stated by John Kennedy, just 10 years ago today.

ADMINISTRATION PROPOSALS TO REDUCE BUSINESS TAXES

Mr. MONDALE. Mr. President, the Treasury recently completed 3 days of

hearings on President Nixon's new depreciation rules, which, it has been estimated, will cut business taxes by \$37 billion over the next decade.

The Economist of May 8 summarized the issues in this controversy, and described the role of Ralph Nader and others in bringing these issues to public attention.

In my judgment, the most persuasive argument against the administration proposals is that with business operating far below capacity, there is little reason to think that the new rules will lead to increased investment. According to the Economist:

The new arrangements will probably not act to stimulate investment until deflation is already well under way.

At a time when 5 million people are out of work, a large tax cut for business which almost all observers agree will have little or no immediate effect on investment or employment would appear to be a particularly poor choice.

Mr. President, I ask unanimous consent that the article from the Economist be printed in the RECORD.

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

A MATTER OF DEPRECIATION

WASHINGTON, D.C.—For three days this week, the Treasury sat as judge and jury over a little matter of \$37 billion which the Administration proposes to allow industry in the form of more generous depreciation allowances when paying taxes. The very phrase "depreciation allowances" is an immediate switch-off phrase; it reeks of technicalities beyond the wit of laymen and of most Congressmen—a subject surely fit only for lawyers and accountants. In announcing the change on January 11th President Nixon emphasized its "highly technical" nature and sought to pass it off as a mere administrative reform. To buttress the argument that the reform did not require legislation, Treasury officials stated that it was not a tax cut, merely a matter of timing.

Companies were to be allowed to depreciate their assets for tax purposes over a period shorter (or longer) by as much as 20 per cent than is laid down in the guidelines instituted in 1962. Since the total allowance would remain the same, it was argued, the Treasury would not be handing out any more money. This line of reasoning incorporated a semantic confusion. It is true that a company making an investment of \$1 million would still write off \$1 million, but in eight years rather than ten. Yet in fact companies make investments year by year—and under accelerated depreciation the Treasury collects less revenue year by year than it would otherwise do. The Treasury estimates the loss at \$2.7 billion in the 1972 fiscal year, starting on July 1st, with a total of \$37 billion for the decade.

There, thanks to the abstruseness of the subject, the matter would have lain: a large tax change presented as a small administrative measure. But this would be to reckon without the groups of Administration watchers that have grown up in the wake of Mr. Ralph Nader's demonstration of the power of the well-informed citizen in a democratic state. Lawyers in Mr. Nader's public interest research group thought that the Administration was probably exceeding the constitutional power which gave to Congress the right "to lay and collect taxes" and that, at the very least, it was taking a major decision without sufficient public debate.

So they threatened to challenge the legal-

ity of the changes on the ground that public hearings had not been held. The Treasury then agreed to hold hearings, even claiming that these had been planned all along. Mr. Jon Gardner's movement for more rational government, Common Cause, diverted some of its energies to this esoteric battle. And the Taxation with Representation lobby, which tries to bring the general public into the debate about tax changes which is usually conducted solely by powerful pressure groups, weighed in by distributing statements by both sides. Other groups have been agitating against what they see as a diversion to corporate pockets of money that would be better use to alleviate social ills.

The hearings centered on two groups of issues: whether the Treasury was exceeding its administrative prerogative and whether the changes made sound economics. Meanwhile Mr. Edwin Cohen, the Assistant Secretary of the Treasury for tax policy had already said that:

"We don't anticipate changing our mind. As a very practical matter, a businessman can rely on this going into effect in its broad outline."

The question of the scope of administrative authority was hotted up by Senator Muskie the day before the hearings began. He released to the press an internal memorandum that a top Treasury official, Mr. John Nolan, had submitted to the White House before Christmas. It judged that legislation would not be needed to reduce the life of assets by 20 per cent as long as the reserve ratio test (see box) was retained. The current proposals include the abolition of this test. Mr. Nolan has changed his mind since writing that preliminary memo and the Treasury now argues that the wording of the tax code allows it discretion, that it has exercised such discretion several times and that the reserve ratio test has not, in fact, operated since it was introduced. Some support for the Treasury's position can be found in the absence from the hearings of top Senators and Congressmen from the committees most concerned with fiscal policy who are usually jealous in guarding their prerogatives. But once the hearings are over the opposition may take its challenge to court.

The economic argument for the changes was the simple one that higher allowances for depreciation would be an incentive to greater investment and modernisation of facilities and that, by comparison with other countries, American allowances were paltry. The latter may be true, but the relationship between investment allowances and investment is unproven. As the chart shows, the decline in profits last year was offset by a handy increase in the value of depreciation allowances from natural causes so that cash flow and dividends were kept up. If companies are going to pass the money on to their shareholders, the case for higher allowances is weakened.

Between 1963 and 1969 investment tax credits helped to set the framework for high capital spending. These credits were done away with on President Nixon's recommendation in 1969—and the revised depreciation allowances are clearly a politically digestible substitute. The argument against the substitute as compared with the original credits is that as an incentive to invest it is less direct and therefore probably weaker in its effect, though it may actually cost the Treasury more and give more money to the corporations.

Furthermore, the new arrangements will probably not act to stimulate investment until reflation is already well under way. The worst sort of environment for business investment is uncertainty. And the switch from one type of encouragement to another has

helped to create it. The use of an administrative measure to replace one abolished by Congress introduces political and legal conflict and thus heightens the uncertainty.

RHODESIA

Mr. TOWER. Mr. President, I have viewed recently, as I am sure quite a few of my colleagues have, the trend toward liberalizing trade with Communist China with a great deal of interest and some very real trepidation. I am convinced that the United States should change her policy in regard to Red China, if at all, only when it is in the overwhelming best interest of the United States and in return for some genuine concessions from the Communist Chinese. So far, I have seen nothing concrete to indicate that we should change any of our policies vis-a-vis the current rulers in Peiping.

Mr. President, this review of our policy with the Chinese comes at a time when we are also dealing with a grave problem of the shortage of high-grade chromium ore in the United States. This shortage is a direct result of our trade policy toward Rhodesia. In complying with a United Nations resolution imposing sanctions against Rhodesia, we have put ourselves in the position of having to buy chromium ore from the Soviet Union. This current policy does not make sense from either a strategic or economic standpoint.

Strategically chrome is a very important ore, being a basic requirement for the high quality steel necessary to manufacture heavy duty engines, particularly jet engines, and for ball bearings, a product essential to the production of almost every type of military equipment from small arms to tanks. Without chrome, under current technology, we simply could not produce the necessary amounts of material to keep our industrialized society moving. To depend upon the Soviet Union for our supply of this strategic ore makes very little, if any, reason to me. Certainly there is no strategic criteria to support this decision. In fact, in October of 1969, Fred Russell, Deputy Director of the Office of Emergency Preparedness, said:

There is no way to see the chromium ore needs of the United States being met without chromium ore from Rhodesia.

Economically the current U.S. position is no more reasonable. Due primarily to the activities of U.N. members and other states who have flaunted the U.N. resolution, Rhodesian chrome continues to be available on the world market at prices relative to pre-embargo levels, while the Soviet Union has more than doubled the price that it charges the United States for chromium ore. In fact, it is very possible, even probable, that the Soviet Union buys chrome ore that originates in Rhodesia and resells it to the United States at about 100 percent profit. It is clear to me that it is time that the United States revise its position in this area.

If it is all right to review the trade policy vis-a-vis Red China, a power that

constantly threatens the peace of the world and is directly involved in the death of American soldiers in Vietnam, a power that has practiced genocide in Tibet, then it is certainly in order to review our policy of trade with Rhodesia, which was our ally in World War II and Korea. Certainly the case for renewed trading in the strategically important chromium ore is a strong one. I call upon the administration to review its policy in this regard and allow those companies who have a need for chrome to buy it from Rhodesia, if that is what they desire.

U.S. POLICY TOWARD GREECE

Mr. FULBRIGHT. Mr. President, in light of the recent press accounts of remarks by a member of President Nixon's Cabinet during a visit to Athens, reportedly expressing President Nixon's feeling of "warmth and confidence" for the Government of Greece, and in light of Assistant Secretary of State Hillenbrand's endorsement of the military regime in Greece, I would like to put in the Record two exchanges of correspondence with the Department of State.

The first exchange relates to the case of Judge Christos Sartzetakis, the prosecutor in the Lambrakis case which was the theme of the movie "Z." On April 21, I wrote Secretary Rogers about the case of Judge Sartzetakis, asking specifically when he was arrested, what communication he had been able to have with his attorney and members of his family and what the views of the Department of State were on the validity of the charges made against him and on the manner in which the case had been handled. Assistant Secretary Abshire replied, in a letter dated May 6. He confirmed that Judge Sartzetakis had been arrested on Christmas Eve and quoted several statements by the Greek Government's press spokesman to the effect that the arrest had been made with a lawfully signed warrant.

Mr. Abshire then went on to say, however, that to the best of the Department's knowledge "Greek authorities have given no reason for Judge Sartzetakis' arrest." At a later point, he stated that the Department was "not aware that the Greek authorities have levied charges against Judge Sartzetakis." These latter statements certainly seem somewhat inconsistent with the statements by the Greek Government's spokesman to the effect that the arrest had been made with a lawfully signed warrant. Even if there were a legal warrant, how can Greek authorities have held Judge Sartzetakis since December 24 without having brought specific charges against him, as the Department apparently believes is the case? Under both Greek civil and military codes, as I understand them, there are specific provisions regarding the period of time within which the accused must be informed of the charges against him. Thus even if the arrest was made with a proper warrant, his continued detention without specification of charges is a violation of

law. I ask that both my letter of April 21 and the Department's reply of May 6 be printed in the RECORD at the conclusion of my remarks as appendix 1.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. FULBRIGHT. The second exchange of correspondence relates to a publication issued by the Department of State entitled "Greece: U.S. Policy," dated January 1971. On April 21, I wrote Secretary Rogers asking for the Department of State's comments on a number of statements made in the paper relating to actions taken to implement the new Greek Constitution, the number of political prisoners in Greece and the position taken by the International Red Cross with regard to the torture of prisoners in Greece. Assistant Secretary Abshire's reply was dated May 7. I ask that both letters be printed in the RECORD at the conclusion of my remarks as appendix 2, and that the GIST paper be printed as appendix 3.

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

Mr. FULBRIGHT. In his letter, Mr. Abshire said that the "GIST" paper indicated on its masthead that it was only "a quick reference aid," was "not intended as a comprehensive policy statement" and was "expected to be little more than a simplified identification of issues." Curiously, however, the statement issued by a Department spokesman on March 4, commenting on the recent report of the Foreign Relations Committee staff on Greece, cited and quoted the GIST paper, and the paper was again cited at the March 5 noon press briefing by Mr. McCloskey. I ask that the statement by the Department spokesman be printed in the RECORD at the conclusion of my remarks as appendix 4.

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

Mr. FULBRIGHT. As for the substance of the Department's reply, it makes clear that it is somewhat misleading to state, as the Department does in the GIST paper, that "with minor exceptions, all institutional laws necessary to put in force the constitution were promulgated by the end of 1970 as pledged by the Greek Government. When the Department chose to use the word "promulgation," it must have done so with knowledge of the specific and limited meaning of the term in current Greek practice. The fact of the matter is that, as I pointed out in my letter, promulgation means nothing more than publication of a proposed law which will have no effect until corresponding enabling legislation has entered into force. It seems to me that it would have been more honest to describe the situation accurately and not to pass over the lack of implementation.

As far as the Department of State's comments on the number of prisoners is concerned, they too make plain that the GIST paper is a study in avoidance. The GIST paper stated:

There are now approximately 300 political prisoners.

I pointed out in my letter that this number did not include those in exile, that—according to the information ob-

tained by the committee staff—between 340 and 380 were serving terms after being convicted and sentenced for political crimes, and that in any case the figure of 300 did not include the arrests that had taken place in the fall. Even the Department's reply states that "there remain about 350 persons who have been tried and sentenced by court martials to prison terms" which leads me to wonder why the 350 figure instead of "approximately 300," was not used in the "GIST" paper. And with respect to the arrests which began last fall, the Department's reply admits, as far as I am aware for the first time publicly, that a number of arrests were made in the fall of 1970 although the letter states:

We still have no firm information on how many were arrested or how many have been subsequently released for lack of evidence.

With the enormous American establishment we have in Athens, and the close cooperation with that government we keep talking about, I find it hard to believe that we do not have pretty accurate information, even though it may not be completely "firm," on the number of those arrested. I am also intrigued by the statement that "according to the Greek Government all of these arrests were made under warrants as provided by Greek law." Does the Department of State believe that these arrests were made under warrants or does it not, or is it afraid of calling a spade a spade?

Finally, I am glad to see that the Department admits that the Red Cross neither confirmed nor denied reports of the use of torture, although that was not the formulation used in the GIST paper.

I urge all who are interested in the current situation in Greece to read these exchanges between Mr. Abshire and myself. Mr. Abshire's letter of May 7 refers to the Department's wish to use certain language in the "interest of objectivity." I do not think that interest has been served either in the "GIST" paper or in Mr. Abshire's letters. But readers of the RECORD may judge for themselves.

APPENDIX 1

APRIL 21, 1971.

HON. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: I would appreciate a report from the Department of State on the case of Judge Christos Sartzetakis of Greece. I would like to know when he was arrested, by what authorities, what charges have been made against him, where he has been held since his arrest and what communication he has had with his attorney or members of his family. I would also like to know the views of the Department of State on the validity of the charges made against Sartzetakis and would like to have the Department's comments on the manner in which the case has been handled.

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

DEPARTMENT OF STATE,

Washington, D.C., May 6, 1971.

HON. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of April 21

requesting information on the case of Judge Christos Sartzetakis, a Greek national.

According to press reports Judge Sartzetakis was arrested December 24, 1970 in Thessaloniki, Greece. The Greek Government's press spokesman during a press conference last month remarked that the judiciary had imposed a ban on publication of information about the arrests in November-December 1970, and thus although he could not comment on the investigation which was still taking place, he could state that all the arrests were made with lawfully signed warrants and that the persons were not arrested by military police as rumored but by the regular police or gendarmerie. At the same press meeting, the Government's spokesman noted that those persons arrested were being held in Korydallos prison. We have been informed privately that Judge Sartzetakis has met with members of his family since his arrest. We are not aware of what arrangements may have been made for his legal defense. To our best knowledge, Greek authorities have given no reason for Judge Sartzetakis' arrest.

As concerns our views on the validity of the charges made against Sartzetakis and our comments on the manner in which the case has been handled, there is no question that we regret the abuse of constitutional guarantees and the violation of civil liberties wherever they occur. We have expressed to the Greek Government on appropriate occasions our concern for the observance of civil liberties including due process of law and for the welfare of persons who have been detained because of activities related to their opposition to the present regime. While we are not aware that the Greek authorities have levied charges against Judge Sartzetakis, we have clearly registered our concern in this case.

I hope the above information will be helpful. Please continue to call on us whenever you think we can be of assistance.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional
Relations.

APPENDIX 2

APRIL 21, 1971.

HON. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: A member of the Committee staff called the Department of State a few days ago and asked for the latest copy of the "GIST" paper on Greece. The paper provided, entitled "Greece: U.S. Policy," was dated January 1971. As this publication is presumably being distributed by the Department to anyone who asks, and is also now being used as a basis for replying to correspondence, I would appreciate the Department of State's comments on a number of statements made in the "GIST" paper:

1. "With minor exceptions, all institutional laws necessary to put into force the constitution were promulgated by the end of 1970 as pledged by the Greek Government."

My understanding is that the exceptions are by no means minor, that some of the institutional laws gazetted on January 5, 1971 were simply published but not decreed to be in force and that, furthermore, not all of the constitutional provisions suspended will be put into effect by institutional laws.

2. "From a high of over 6,000 in 1967, there are now approximately 300 political prisoners."

My understanding is that somewhere between 335 and 355 were detained immediately after the coup (and were among the 6,000 known and alleged communists rounded up at that time) and that, as of January 1971, some 600 were in internal exile and some 340 to 380 were serving terms after being convicted and sentenced for political crimes.

According to the April 9 press release of the Greek Embassy, 234 communists have been released and 27 former officers and parliamentarians who were in internal exile will have their confinement "totally lifted" (although I have heard some reports that some of these 27 are still being detained by the police). At any rate, even on the basis of the information in the Greek Embassy's press release, it would appear that there are still 50 communists in detention and some 30 who continue to be in internal exile. In addition, as noted above, it is my understanding that between 340 and 380 are serving prison sentences for political crimes not including those arrested since November. Indeed I see no reference in the "GIST" paper to the arrests that have taken place since last fall.

3. "During the operative period of the agreement, no instances of torture of prisoners were confirmed by the Red Cross."

My understanding is that the Red Cross neither confirms nor denies instances of torture but makes all of its reports to governments on a confidential basis. The implication of this statement is that there has been no torture of prisoners in Greece. Is this the impression the Department of State wishes to convey?

I also note that under the publications listed for "further reference," the Hearings of the House Foreign Affairs Committee of February 1970 were listed but the Hearings of the Subcommittee on United States Security Agreements and Commitments Abroad relating to Greece and Turkey, held on June 9 and 11, 1970, and released on October 5, 1970, were not mentioned. I wondered why.

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

DEPARTMENT OF STATE,
Washington, D.C., May 7, 1971.

HON. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of April 21 requesting the Department's comments on statements made in the GIST paper entitled "Greece: U.S. Policy."

The "GIST" on Greece was dated January 1971 and of course reflects the situation as we perceived it at the end of 1970. Moreover, as indicated on the masthead of the paper, GIST is "a quick reference aid—not intended as a comprehensive policy statement." Actually "GIST" is expected to be little more than a simplified identification of issues.

There were three statements in the "GIST" to which you drew our attention.

1. "With minor exceptions, all institutional laws necessary to put into force the constitution were promulgated by the end of 1970 as pledged by the Greek Government."

This statement is to the best of our knowledge, correct. At his April 10, 1970 press conference, the Prime Minister indicated that "a public discussion on institutional laws will start tomorrow and continue until October, at the rate of three a month. From July to the end of the year all the institutional laws provided for (by the Constitution) will be approved, again at the rate of three a month." The publication of most of the laws in the Official Gazette met that commitment and laid the groundwork for the implementation of the articles of the Constitution to which they apply. We find it most regrettable that the Greek Government did not proceed more quickly to implement the articles of the Constitution after promulgating the institutional laws. As matters now stand a number of key provisions of the Constitution remain suspended.

2. "From a high of over 6,000 in 1967, there are now approximately 300 political prisoners."

The GIST to which you refer does not reflect recently reported changes in the status of some political detainees. The two remaining island detention camps were closed on April 10, 1971 when 234 of the remaining 284 detainees were released. Fifty detainees considered by the Government to constitute a continuing danger to public order and security had their status changed to exile in remote villages where they will continue to be subject to surveillance. In mid-1970 about 75 persons detained for alleged anti-government activity were in exile to enforced residence in various villages. By April of this year the number had been reduced to about 47. On April 7, it was announced that 27 of these persons would be released, leaving, according to the Greek press, 16 to 25 still in exile. Presumably the total number in exile, including those detainees whose status was changed, is now about 75.

In addition, there remain about 350 persons who have been tried and sentenced by courts martial to prison terms, mostly for politically motivated activities. We believe that the sentences in a number of cases were disproportionately harsh. We continue to urge the Greek Government to re-examine the sentences of all these prisoners and to exercise clemency.

As you point out, a number of arrests were made toward the end of 1970. We still have no firm information on how many were arrested or how many have been subsequently released for lack of evidence. According to the Greek Government all of these arrests were made under warrants as provided by Greek law. In any event we have made clear to the Government of Greece our deep concern over the use of arbitrary police powers and the abuse of individual liberties.

3. "During the operative period of the agreement, no instances of torture of prisoners were confirmed by the Red Cross."

As you indicated, during the operative period of the International Committee of the Red Cross agreement the Red Cross neither confirmed nor denied reports of the use of torture. Substantive reports dealing with the Red Cross' findings and recommendations were made directly to the government. Although there may have been some excesses, particularly during the early months of the regime, we believe that reports of torture coming from Greece were exaggerated.

I am sending you under separate cover an item of classified information on this subject. Considering all the available information, we believe that the statement in the GIST regarding torture was justified in the interest of objectivity, even though we were unable to be more specific in an unclassified document.

The omission of the publication of the Hearings of the Subcommittee on United States Security Agreements and Commitments Abroad of June 9 and 11, 1970 was a simple oversight which will be corrected in the next revision of the GIST. We are now preparing a fourth revision of "Greece: U.S. Policy" in the GIST series which will take into account developments since the end of 1970.

If I can be of any further assistance please do not hesitate to call on me.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional
Relations.

APPENDIX 3

GREECE: U.S. POLICY

What is our policy toward Greece?

1. In April 1967 an authoritarian regime overthrew the constitutional government of Greece and suspended a number of basic civil liberties. The U.S. was faced with three al-

ternatives in responding to this development:

- To support the junta;
- To break relations;
- To continue relations while encouraging the regime to return to constitutional, representative government.

We also had to consider Greece's role as an important NATO ally which continues to fulfill its treaty obligations, and the strategic advantages it offers to the alliance in the Mediterranean. Growing Soviet naval activity in this area poses an increasing problem for the security of NATO's southern flank.

2. *U.S. policy:* We elected to continue relations because this course of action provided the only means of exerting a constructive influence for the return to constitutional, representative government. We are continuing to urge the regime to fulfill its commitment to enact liberalization measures and to prepare for elections. In our discussions with Greek government leaders we have made our position clear, and we believe this policy has effectively contributed to a number of changes in the direction of reform.

3. *Political situation:* In September 1968, the present government submitted a new constitution to referendum. Since then the Greek government has been drafting and enacting legislation to implement the new constitution. With minor exceptions, all institutional laws necessary to put into force the constitution were promulgated by the end of 1970 as pledged by the Greek government. Although important provisions of the constitution continue suspended, legislation now in effect has eased martial law, partially restored civil rights, lifted restrictions on travel of former politicians, and relaxed restraints on the press.

While the Greek government continues to affirm its intention to return to parliamentary government, we are disappointed with the apparent slackening of progress in this direction. The Prime Minister declared in December 1970 that there would be no additional constitutional developments during 1971. He further announced that he alone would determine when the country is ready to take the next steps to restore a normal political situation.

We will continue to urge the government to accelerate the process of restoring representative government in Greece.

Grant economic aid to Greece was terminated in 1962. The last AID development loans were made in 1964.

A U.S. military assistance program for Greece has existed since the days of the Truman doctrine. We suspended the delivery of major items of military equipment shortly after the 1967 coup. However, after the 1968 Soviet invasion of Czechoslovakia, certain items of military equipment previously on the suspended list were delivered to Greece as part of an effort to bolster the strength of the NATO deterrent.

With that one exception, the suspension continued in force until September 22, 1970 when the U.S. announced the lifting of the partial embargo. Approximately \$56 million worth of equipment which had been withheld is now being delivered to Greece over a two-year period. The resumption of these shipments will enable the armed forces of Greece to more effectively carry out their NATO responsibilities.

5. *Political prisoners:* From a high of over 6,000 in 1967, there are now approximately 300 political prisoners. The Prime Minister has pledged to free all remaining political detainees by the end of April 1971 if security conditions permit. Last November the Greek government abrogated its one-year agreement with the International Committee of the Red Cross which permitted relatively free access by the Red Cross representative in Athens to Greek jails, police stations, and

detention camps. The government held that the ICRC presence was unnecessary and reflected on Greek sovereignty. During the operative period of the agreement, no instances of torture of prisoners were confirmed by the Red Cross.

APPENDIX 4

STATEMENT BY DEPARTMENT SPOKESMAN

We agree with the staff report that the Greek Government's cooperation on military matters has been satisfactory. Our statement on September 22, 1970 made clear that the decision to resume delivery of suspended items to Greece rested entirely upon considerations relating to the strategic advantages to NATO and to the United States.

Our position on the pace of the Greek Government's efforts to restore democratic institutions in Greece is equally clear. In the Department's publication (January, 1971) "Greece: United States Policy" the point was made that "We are continuing to urge the regime to fulfill its commitment to enact liberalization measures and to prepare for elections" and "we are disappointed with the apparent slackening of progress in this direction."

More recently, Assistant Secretary Sisco, on February 14 in a nationwide television interview said: "... we have been disappointed in the fact that there hasn't been more progress toward the establishment of parliamentary government. . . . we would hope that more progress in the future can be made toward the establishment of democratic institutions."

TRIBUTE TO HORACE J. CROUCH, SR.

Mr. THURMOND. Mr. President, the passing of the Honorable Horace J. Crouch, the father of my first wife, Jean Crouch, and county superintendent of education of Barnwell County, S.C., has been a heartfelt grief in the sense that a fine and wonderful man has been taken away from the many who loved and respected him.

In another sense, however, his death marks a triumph—for his was a long life which counted in a very real way to all who came under his influence.

His death was a triumph over death itself; for where is the sting of the grave when one enters eternity safe in the arms of the Savior whose gift of everlasting life is unparalleled by any other favor bestowed upon man?

Mr. President, Horace J. Crouch was the oldest officeholder from the point of continuous service in the State of South Carolina. At his death, he had been Barnwell County's superintendent of education for more than 60 years. The significant aspect of this, however, is not the number of years, but the large number of lives that were touched and uplifted by his guiding influence. He influenced many lives, and every one of them was better off because of it.

Horace J. Crouch was a Christian gentleman, a devout Baptist, a lifelong educator, a loving husband, a selfless father, and a loyal friend. He is survived by his lovely wife, Inez B. Crouch, who inspired him through their long and happy marriage. The Crouch family has three surviving children: Horace J. Crouch, Jr., a distinguished retired Army officer; Dr. Robert Crouch, a renowned urologist;

and Frances C. Kennedy, wife of Col. David H. Kennedy.

I knew him well, I admired him greatly, and I shall miss him.

Mr. President, I ask unanimous consent that the following be printed in the CONGRESSIONAL RECORD at the conclusion of these remarks: Accounts of Horace Crouch's life and death which appeared in the State, Columbia, S.C., on April 22, 1971; the News & Courier, Charleston, S.C., on the same day; and the Williston Way, Williston, S.C., on April 29, 1971; the funeral messages delivered by Rev. Paul B. Nix, pastor of Elko Baptist Church, and Rev. Emerson L. Isler, former pastor of Elko Baptist Church; and a tribute prepared by the members of Elko Baptist Church in memory of Horace J. Crouch, Sr.

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

[From the Columbia (S.C.) State, Apr. 22, 1971]

H. J. CROUCH DIES; RITES ARE PENDING

ELKO.—Horace J. Crouch Sr., 89, Barnwell County superintendent of education for the past 60 years, died Wednesday in his home.

Mr. Crouch was born in 1882 in Edgefield County, a son of the late George E. and Sallie Johnston Crouch. He had been a resident of Elko for more than 80 years.

Mr. Crouch was first elected superintendent of education in 1909. He was a graduate of Elko High School, Class of 1900, and was graduated from Furman University in 1903. He was the oldest office-holder in continuous service in South Carolina.

Mr. Crouch was a classroom teacher for eight years, in elementary and high schools. He was a charter member of the State School Book Commission, organized in 1936, and was serving as its chairman for many years until his death. He held a life membership in the National Education Association and was a member of several other educational organizations.

Mr. Crouch was a member of Elko Baptist Church and a life member of Hope Lodge No. 126 in Williston.

Surviving are his widow, Mrs. Inez Breazeale Crouch; a daughter, Mrs. David H. (Frances) Kennedy of Williston; two sons, Col. Horace J. Crouch, Jr. (USA, Ret.) of Arlington, Va., and Dr. Robert D. Crouch of Frederick, Md.; a brother, George E. Crouch, Sr. of Williston; and eight grandchildren.

Mr. Crouch's youngest daughter, Mrs. Jean Crouch Thurmond, died in 1960. She was the first wife of U.S. Sen. Strom Thurmond (Rep.-S.C.).

Funeral arrangements will be announced by Folk Funeral Home in Williston.

[From the Charleston (S.C.) News & Courier, Apr. 22, 1971]

BARNWELL SCHOOL HEAD CROUCH DIES

ELKO.—Horace J. Crouch, 89, Barnwell County superintendent of education for the past 60 years, died here Wednesday.

Funeral arrangements will be announced by the Folk Funeral Home of Williston.

Mr. Crouch was born March 18, 1882, in Edgefield County, a son of the late George E. and Sallie Johnston Crouch. He had lived in Elko for more than 80 years.

He was first elected superintendent in 1909. He graduate from Elko High school in 1900 and graduated from Furman University in 1903. He was the oldest office holder from the point of continued service in South Carolina.

His youngest daughter, Mrs. Jean Crouch Thurmond, died in 1960 and was the first wife of U.S. Senator Strom Thurmond, R-S.C.

Mr. Crouch was a charter member of the state School Book Commission, which was organized in 1936, and was serving as chairman at the time of his death. He held a life membership in the National Education Assn. and was a member of several other educational organizations.

He was a member of the Elko Baptist Church and a life member of Hope Lodge 126 at Williston. He was married to the former Inez Breazeale of Elko, on Dec. 26, 1907.

Surviving in addition to his widow are: a daughter, Mrs. David H. Kennedy of Williston; two sons, Col. Horace J. Crouch Jr. (U.S. Army-Ret.), of Arlington, Va.; and Dr. Robert D. Crouch of Frederick, Md., a brother, George E. Crouch Sr. of Williston; and eight grandchildren.

[From the Williston (S.C.) Way, Apr. 29, 1971]

SUPERINTENDENT OF EDUCATION: CROUCH RITES HELD AT ELKO ON FRIDAY

Horace J. Crouch, Sr., 89, Barnwell county superintendent of education for the past 60 years, died suddenly in his home town of Elko late Wednesday afternoon.

Born March 18, 1882, in Edgefield county, Mr. Crouch was the son of the late George E. and Sallie Johnston Crouch. He had been a resident of Elko for over 80 years.

Mr. Crouch was first elected to the post of superintendent of education in 1909. He was a graduate of Elko High school, Class of 1900 and graduated from Furman University in 1903.

He was the oldest office holder from the point of continuous service in the state of South Carolina.

For eight years he was a classroom teacher, serving both in elementary and high school. He was a charter member of the State School Book Commission, which was organized in 1936 and was serving as chairman at the time of his death, a post he had held for many years.

He held a life membership in the National Education association and was a member of several other educational organizations. His first love was always schools and children and he spent his life working for their welfare and promotion.

Mr. Crouch was a member of Elko Baptist church and life member of Hope Lodge, No. 126, at Williston.

He was married to the former Inez Breazeale on December 26, 1907. She survives.

Other survivors include one daughter, Mrs. David H. (Frances) Kennedy of Williston; two sons, Col. (U.S. Army, Ret.) Horace J. Crouch, Jr., of Arlington, Va., and Dr. Robert D. Crouch, of Frederick, Md.; one brother, George Edward Crouch, Sr., of Williston; and eight grandchildren.

His youngest daughter, Mrs. Jean Crouch Thurmond, died in 1960. She was the first wife of U.S. Sen. Strom Thurmond (R-SC).

Funeral services were conducted Friday at 3:00 p.m. at the Elko Baptist church with the Rev. Paul Nix and the Rev. Emerson Isler officiating. Interment followed in the Bethany cemetery in Aiken.

Pallbearers were Paul Stansell Green, Everett Hutto, Norman Smith, Claude Jamison, Truluck Kelly, Clifford Nix, Hugh Birt and Henry C. Quarles.

The family suggests that those who wish may make memorials to Elko Baptist church.

A PRINCE AND A GREAT MAN HAS FALLEN IN ELKO

(Funeral message for Horace J. Crouch, Sr., Elko Baptist Church, S.C., April 23, 1971, 3:00 p.m. Burial in Bethany Cem., Aiken, S.C. Rev. Paul B. Nix, Pastor.)

There is a verse of Scripture, II Samuel

3:38, that I want to use: "And the king said unto his servants. Know ye not that there is a prince and a great man fallen this day in Israel?" Permit me to give this a modern paraphrase—"And the pastor said unto the people, you know that there is a prince and a great man fallen this day in Elko."

In the death of Horace Crouch, Sr., our Town and community has lost its greatest ambassador thus far—for it was through him and his family that "Elko" reached beyond the area normally covered by a place our size. How thankful we are that this influence was deeply saturated by humility, simplicity of life, love and devotion to family and others, and to the Lord and His Church. As an ambassador for Elko, we have lost a prince and a great man.

As a church, we have lost a precious member and saint. In the sight of the Lord every saint's death is precious (Psalm 116: 15). The Lord blessed him with long life, good health, a keen mind, and many talents. He used all these for the Lord and anchored them in his Savior and Lord and the local church. He served the Lord for more than 70 years of his life span. Most of these years were given in and through this local church. He served in many places of responsibility—Sunday School Supt. for many, many years, teacher, deacon—and in his latter years as an Honorary Life Deacon. He was teacher of the men's Bible class at the time of his death. Up until January 1 of this year, he claimed to have better attendance than I—because I took vacations and he did not! He was able to do more for the Lord than some others because the Lord entrusted him with more abilities. Likewise, the Lord required more from him than from some others who had fewer abilities.

Permit me to use some words from this week's *Baptist Courier*, our denomination's weekly paper in this State. (Mr. Crouch served as this church's *Baptist Courier* representative and the paper had no stronger supporter and booster.) These words were spoken and written about another, but apply so well to Brother Crouch: "Another able Baptist leader has fallen from the ranks. . . (He) had earned for himself a respected place of leadership . . . through hard work, good judgment, staying close to the job and especially an avowed willingness to do anything that needs to be done for the cause of righteousness." The steadying hand . . . will be missed in the . . . area and across the state generally. But to say the work to which he committed himself cannot go on effectively without him would reflect poorly on the man. He believed in a well structured program, plans for the future, and trust in the Lord. Those who follow him can do no less." (Editorial, p. 3). As a church, we know that a prince and a great man has fallen.

As a public servant in the field of education, having served upward toward 60 years as County Supt. of Education for Barnwell County—on less salary than many of the teachers under him, and we know that bracket, a prime and a great man has fallen.

It is humanly impossible to live a perfect life. One does not serve Christ and the church for more than 70 years and the public for nearly 60 years without being acutely aware of this and without being reminded of this fact many times. Yet, now, that the life has come to an earthly close, we are forced to say, (and under the circumstances glad to say) a prince and a great man has fallen.

As his pastor, there are so many things I would like to say—these are far more numerous than time and wisdom permit, so, let me say just a few brief things about him.

I. I FEEL THAT THE WAY OF HIS GOING WAS AN ANSWER TO HIS PRAYERS

As you know, he went suddenly. If there was any area in the Christian life he excelled, it was in his prayer life. To hear him pray was to be made aware that he knew Him to

whom he was praying. I think his prayer would have taken this path:

AFTER WORK

"Lord, when Thou seest that my work is done,

Let me not linger on,
With falling powers,
Adown the weary hours,—
A workless worker in a world of work.

But, with a word,
Just bid me come home,
And I will come
Right gladly,—
Yea, right gladly
Will I come." (And, he did!)

JOHN OXENHAM.

I believe he could say what Jesus said, "I have glorified thee on the earth: I have finished the work which thou gavest me to do." (John 17:3). And, like the Apostle Paul said, "For I am now ready to be offered, and the time of my departure is at hand. I have fought a good fight, I have finished my course, I have kept the faith: Henceforth there is laid up for me a crown of righteousness, which the Lord, the righteous judge, shall give me at that day: and not to me only, but unto all them also who love his appearing." (II Timothy 4:6-8).

He was not afraid to think about, talk about, and face death. Before Easter he called and told me that he had ordered enough copies of, "Through the Valley of the Shadow," for every family in the church. (Article by Billy Graham, *Readers Digest*, April, 1971, p. 107ff.).

II. HE HAD EVERY RIGHT NOT TO TELL PEOPLE HOW OLD HE WAS, BECAUSE, IN A SENSE HE NEVER DID GROW OLD

It was almost a joke to ask him his age. There are some lines that ask, "How Old Are You?"

"Age is a quality of mind;
If you have left your dream behind,
If hope is cold,
If you no longer look ahead,
If your ambition fires are dead—
Then you are old.

But if from life you take the best,
And if in life you keep the jest,
If love you hold;
No matter how the years go by,
No matter how the birthdays fly,
You are not old.

(Selected.)

He could crack pecans and ice with his natural teeth! He had a keen and alert mind. He kept his wit and humor. He worked in his garden the day he died. Since returning home from the hospital, he has worked and set out shrubbery and grass here on the church grounds.

III. HE LIVED IN A HOUSE BY THE SIDE OF THE ROAD AND WAS A FRIEND OF MAN

He must have been the type of man that Homer had in mind when he said, "He was a friend to man, and lived in a house by the side of the road." Through the years the Crouch home by the side of the road has been open to man. I have told Mr. Crouch several times that I believe that half the people in S.C. had spent the night at his house!

"There are hermit souls that live withdrawn
In peace of their self-content;
There are souls, like stars, that dwell apart,
In a fellowless firmament;
There are pioneer souls that blaze their paths
Where highways never ran;
But let me live by the side of the road
And be a friend to man.

I see from my house by the side of the road,
By the side of the highway of life,
The men who press with the ardor of hope,
The men who are faint with the strife.

But I turn not away from their smiles nor their tears—

Both parts of an infinite plan;
Let me live in my house my the side of the road
And be a friend to man."

SAM WALTER FOSS.

IV. HE LEFT THE WORLD A MORE BEAUTIFUL PLACE BY HIS HAVING LIVED

In his active farming days, he was considered one of the most diversified farmers in the County. His yard was always a place of beauty. Through the years he had taken pride and joy in making the church grounds beautiful. He always had a flower pinned on his lapel when he dressed up. Only once did I see a substitution for that flower—it was a button which said, "Have a Happy Day!"

"I shall not pass this way again—
Although it bordered be with flowers,
Although I rest in fragrant bowers,
And hear the singing
Of song-birds winging
To highest heaven their glad some flight;"

EVA ROSE YORK.

He heard and obeyed the voice of Jesus. "Lay not up for yourselves treasures on earth . . . But lay up for yourselves treasures in heaven." (Matt. 25: 21ff.).

V. HE CHOSE THE ROLE OF A SERVANT

He chose to be a public servant—a public school teacher and educator. I do not think he ever seriously thought about greatness, but he heard and responded to these words, "He that would be great among you, let him be your servant."

He chose to be a servant of Christ and the church. Herein is our hope in this hour and for eternity. Jesus spoke about whoever did and taught the commandments, the same would be called great in the kingdom of heaven. (Matt. 5: 19). Mr. Crouch also heard and responded to these words. He *did* and he *taught*.

"And so he that had received five talents came and brought other five talents, saying, Lord, thou deliveredst unto me five talents: behold, I have gained beside them five talents more. His lord said unto him, Well done, thou good and faithful servant: thou hast been faithful over a few things, I will make thee ruler over many things: enter thou into the joy of thy lord." (Matt. 25:20-21).

A prince and a great man has fallen. He was a prince and a great man because he served the Lord and his fellow man.

HORACE J. CROUCH, SR., A GREAT MAN OF GOD

(Funeral message delivered on April 23, 1971 at Elko Baptist Church, Elko, South Carolina, by his former pastor, the Rev. Emerson L. Isler, now pastor of Dearing Baptist Church, Dearing, Georgia.)

I believe the following scripture could have been uttered by this great man of God: "The Lord is my light and my salvation; whom shall I fear? the Lord is the strength of my life; of whom shall I be afraid?" (Psalm 27:1; 13-14).

And I believe our Lord could respond by saying, "Fear not: for I have redeemed thee, I have called thee by thy name; thou art mine. When thou passest through the waters, I will be with thee; and through the rivers, they shall not overflow thee: when thou walkest through the fire, thou shalt not be burned; neither shall the flame kindle upon thee. For I am the Lord thy God, the Holy One of Israel, thy Saviour . . . Since thou wast precious in my sight, thou hast been honorable, and I have loved thee . . ." (Isalah 43:1-4a).

God's Word declares, "Precious in the sight of the Lord is the death of his saints." (Psalm 116:15).

The prayer of one aged believer was, "Lord, now lettest thou thy servant depart in peace, according to thy word; for mine eyes

have seen thy salvation." (Luke 2:29-30). I believe Mr. Crouch could have easily prayed this prayer.

Revelation 14:13 states, "Blessed are the dead, who die in the Lord henceforth . . . that they may rest from their labors . . . and their works do follow them."

David, writing under the inspiration of God declared, "The Lord is my shepherd; I shall not want. He maketh me to lie down in green pastures; he leadeth me beside the still waters. He restoreth my soul; he leadeth me in the paths of righteousness for his name's sake. Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me; thy rod and thy staff they comfort me. Thou preparest a table before me in the presence of mine enemies; thou anointest my head with oil; my cup runneth over. Surely goodness and mercy shall follow me all the days of my life: and I will dwell in the house of the Lord forever." (Psalm 23).

We have lost a great man of God. There was never a man whom I admired any more than Horace J. Crouch, Sr. I truly loved the man! He never met a stranger. I first met him when I became his pastor in August of 1959. I was his pastor for five wonderful years, and grew to appreciate and admire him more and more with the passing of the years. I came to appreciate his dedication to his church and to his Saviour. I admired his keen mind and good sense of humor which he constantly exhibited to all who knew him.

In particular, I came to appreciate his wonderful spirit of appreciation for others. He was always ready to say a good word about others. When there was an opportunity he would be the first to offer a resolution, commending a pastor who was leaving for a new field of service, or some member who had been outstanding in some way. He was always thoughtful of others and ready to say so.

He was a man of sympathetic understanding when someone lost a loved one. He was always there. In November of last year, he and his pastor and a group from Elko Baptist Church attended the funeral of my dear mother in Liberty, South Carolina. This is something we simply can't forget! And now today we are here trying to say a few words about Mr. Crouch who has meant so very much to so many of us.

Mr. Crouch was a tower of greatness in the state of South Carolina for so long that it is going to be extremely hard for us to get used to being without him. He is going to be greatly missed.

My personal sympathy goes to his dear wife whom we all love and appreciate so much. To the wonderful children of this union, we express our sympathy. To the brother and the many others, we want you to know of our sorrow, too, over his death.

The author of the Book of Samuel long ago described King Saul in these words: ". . . from his shoulders and upward he was higher than any of the people." (I Samuel 9:2). It seems that Saul was of tall stature easily. So, he towered above all the others. He was head and shoulders above the rest.

Mr. Crouch was a man who stood head and shoulders above the rest. Physically, he was not such a man, but spiritually speaking, he was very tall. He was tall enough to reach God, and yet not too tall that he could not reach down to his fellowman. He was this kind of man!

We know that his life has already spoken its own testimony. I need not add to what he has told us. However, I cannot let this moment pass without speaking the tribute we all feel and know. Just to mention such ought to lend encouragement to us as we try to imitate him.

So, we have come this afternoon as loved ones, neighbors, and friends. We have great admiration for the faith, judgment, leader-

ship, character and service of this man of God.

1. Mr. Crouch Stood Head And Shoulders Above The Crowd Level In Pioneer Education.

He taught school when this county was young in educational endeavors. He was, indeed, a pioneer. He knew every nook and corner of this county. He knew where every school has ever been located in the past. He remembered hundreds of names in the field of education, both in the past and present.

He befriended many a person in those early days when life was rugged and uncertain. He has walked where others later would walk, leaving his own footprints in the sands of time. Education was his life's work—a long life of work, an enduring work, indeed! And he loved it! And so many loved him for what he meant to them! To some degree, I can understand his love for education. Both my father and mother were school teachers, too.

I think Henry Adams has summed it up well when he wrote, "A parent gives life, but as a parent, gives no more. A murderer takes life, but his deed stops there. A teacher affects eternity; he can never tell where his influence stops." And Mr. Crouch's influence will live on and on.

Daniel Webster once said, "If we work upon marble, it will perish. If we work upon brass, time will efface it. But if we work upon men's immortal minds, if we imbue them with his principles, with the just fear of God and love of their fellowmen, we engrave on those tablets, something which no time can efface, and which will brighten and brighten to all eternity." This, Mr. Crouch has done!

2. Mr. Crouch Stood Head and Shoulders Above The Crowd Level As A Church-man And Christian.

The church was the center of his busy life. He served Elko Baptist Church in nearly every conceivable capacity, being a deacon and teacher for so many, many years. He had a very keen mind and sense of devotion constantly throughout his many years. He kept this until the day he died.

He loved his pastors. Only by his devotion to God through Jesus Christ could he have ever loved me, his former pastor! God gave him the capacity to do even this! And I loved him. I think it was easier for me to love him than for him to love me! He stood tall in all this!

3. Mr. Crouch Stood Head And Shoulders Above the Crowd Level In Personal Character.

He was the image of a saintly Christian gentleman. He lived for Christ each and every day, consistently throughout his many years. He was trustworthy, kind, compassionate, understanding, and one who has fought a good fight, one who has kept the faith. He kept faith with his God, his wife, his family and the many others with whom he worked. Now he has finished his course in this life, but he shall continue to live on in the lives of those whom he has influenced for righteousness.

When any of us die, only one thing matters: not how much money we have, not how many flowers decorate the chancel, not how many people attend, not how many lodges we belonged to—only one thing matters—what is in your soul! Have we trusted Jesus Christ as our Saviour? Are we in harmony with God through Jesus Christ? How much of Jesus Christ is there in our hearts? I believe that Mr. Horace J. Crouch, Sr. had much of Jesus Christ in his heart! And that is sufficient! And therefore, we can declare, "To God be the glory."

IN MEMORY OF HORACE J. CROUCH, SR.

We the members of the Elko Baptist Church, Barnwell Association, pause to pay a tribute of love and respect to the memory of a faithful and dedicated member, Horace

J. Crouch, Sr., who passed from our midst suddenly on April 21, 1971.

He loved the Lord and the church. He served the Lord by living for Him for more than seventy years—most of these being given through this church. He served this church in many ways: faithful member, Deacon, Sunday School Superintendent, Teacher, and by giving many hours of labour with his hands and means to beautify the grounds. This Church expressed its appreciation to him for his loyal and dedicated service in 1955 by presenting him an engraved cup for fifty years of dedicated service as "Teacher-Sunday School Superintendent." He was still Teacher of the Men's Sunday School Class until his death. Also, he was elected to serve as an Honorary Deacon for life.

Since he also served as a public servant and gave a strong Christian witness in this area, we feel that it is appropriate to mention some achievements and accomplishments in public life. Among the many we mention his serving as Superintendent of Education for Barnwell County for a longer period in an elective office than anyone in S. C. In 1967 Furman honored him by awarding him the Algernon Sydney Sullivan Award, which is given "to an alumnus and to a senior man in recognition of his aspirations and noble, humanitarian qualities of character." Also, the County Board of Education voted to name the Vocational High School, "The Horace J. Crouch Education Center."

He was a devoted husband, a dedicated father, and his house by the side of the road was the essence of hospitality.

We feel that the following lines written by John Oxenham, which was used at his funeral service by his pastor, describe his desire to leave this world while active:

"Lord, when Thou seest that my work is done,

Let me not linger on,
With failing power,
Adown the weary hours,—
A workless worker in a world of work.
But, with a word,
Just bid me home,
And I will come
Right gladly,—
Yea, right gladly
Will I come."

We extend our deepest sympathy to his wife and children and commend them to the God of all comfort.

We request that a copy of these resolutions be sent to the members of his family, notice be sent to The Baptist Courier, and a copy be preserved in the records of our church.

Respectfully submitted,

ALMA ROGERS.
MARY STANSEL.
JAMES M. GREENE.

PENTAGON PROCUREMENT REFORM ABORTED—EDITORIAL FROM ARMED FORCES JOURNAL

Mr. PROXMIRE, Mr. President, it is scarcely news today that the Pentagon's system of weapons procurement is badly in need of reform. Many of us have recognized as much for quite some time. And last summer, when the message finally reached the top ranks of the Defense Establishment and Deputy Secretary Packard decreed that a mess in procurement existed, we even dared to hope that changes were on the way.

Our hopes have proved unfounded. The public relations blitz has come and gone, and now after a year almost nothing has changed. We still buy before we

fly, competitive prototype developments are given lip service but seldom used, and the few fixed price contracts remaining have been converted to cost reimbursement.

Which leaves us somewhat confused. Under the circumstances, it is comforting to know that we are not alone, as an editorial in the May 17 edition of the *Armed Forces Journal* attests. I ask unanimous consent that this editorial be printed in the *RECORD*.

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

MR. PACKARD YOU HAVE GOT EVERYONE
CONFUSED

(By Benjamin F. Schemmer)

Just weeks ago you were writing memos saying we'd ought to give Lockheed and Boeing Seattle some money to prototype simple, lightweight fighters. Northrop is building one for you: the International Fighter Aircraft, if you'll recall the competition that the Air Force troops thought LTV won—which just made us wonder why you didn't suggest some money be given to LTV as well. Since someone had told us Lockheed's IFA proposal was "unresponsive."

But we thought you had a great idea: fly before we know what we need. Competitive prototypes. Austere programs that wouldn't bog down in complex contracts, detailed specifications and gobbledegook. The kind of stimulus to competition that Frank Gard Jameson urged last year ("A New Plan for Weapons Acquisition," *JOURNAL* 25 July). But then you changed your mind, or clarified your guidance, and decided to fund just Lockheed's prototype fighter, the X-27.

Now, you've confused everyone again. You gave the Heavy Lift Helicopter award to one contractor. Did you read the Request for Quotation? "The government plans to award two or more cost-type contracts as a result of this solicitation . . ." And you had the Program Manager tell everyone this: "I emphasize that the effort to be accomplished is specifically directed toward advancing the technology of components and NOT the development of total heavy lift helicopter system system . . ." (Your emphasis, not ours).

You changed the ground rules for source selection—without telling the contractors. And you've launched another one horse race on a program with more than a few technical risks and a billion or so dollars at stake.

And you've got everyone so damned confused, we begin to wonder . . .

THREE MISTAKEN ASSUMPTIONS OF CURRENT U.S. MIDEAST POLI- CIES

Mr. RIBICOFF. Mr. President, the distinguished senior Senator from Minnesota recently addressed a gathering in Minneapolis concerning our Nation's present policies in the Middle East.

His remarks display an unusually keen awareness of the self-defeating nature of the tactics now being employed by our own Government to reach a settlement between Israel and Egypt. Senator MONDALE will have performed a great service if his dispassionate analysis of the implications of Secretary Rogers' recent trip is heeded.

Senator MONDALE eloquently describes the dilemma posed to American interests by downplaying our interest in Israel's security. As the Senator puts it:

To disguise our ultimate interest in Israel's security is to endanger that interest by fostering miscalculation among all the parties.

Senator MONDALE has pinpointed three highly dubious assumptions upon which the State Department's present policies rest:

That our immediate objective should be a definite "settlement" managed from the outside.

That the U.S. can and should act as middleman in negotiations.

And finally—

The forecast of doom if we don't sponsor instant negotiations and a settlement.

I agree fully with Senator MONDALE's assertions that the only chance for peace is Arab acceptance of Israel. And I wish to underscore his observation that the Arabs will never face up to that acceptance so long as outsiders hold out the prospect of forcing Israeli concessions bit by bit.

At a time when Israeli doubts about U.S. intentions and vague assurances are so strong, Secretary Rogers' calculated snubs to Israeli sensitivities during his visit there could only maximize their worst suspicions. While I certainly do not question the Secretary of State's desire for peace in the Middle East, I must question the way he is going about finding it.

I commend Senator MONDALE's perceptive speech to all my colleagues who share a desire for a lasting peace in the Middle East.

Mr. President, I ask unanimous consent that the text of Senator MONDALE's speech be printed at this point in the *RECORD*.

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

SPEECH BY SENATOR MONDALE

Diplomacy, we are told, is often the art of delicate understatement—even in the face of catastrophe.

The Captain of the *Titanic* was reportedly being diplomatic, for example, as his great ship struck an iceberg and was sinking in the North Atlantic.

Learning there were not enough lifeboats for all passengers and that her husband would be left behind, a sobbing woman cried out to the Captain, "How can this happen . . . this ship was supposed to be indestructible."

"Madam," the Captain coolly replied, "that appears to have been an unrealistic assumption."

As for both diplomacy and sinking ships, I want to talk to you tonight about some "unrealistic assumptions" behind this country's policy in the middle East.

The columnists tell us we are now at another turning in the baffling and volatile part of the world. The Secretary of State has flown 18,000 miles, bargained with Arab and Israeli, and returned with vague hints of some agreement to re-open the Suez Canal.

By now, there is something tiresome in these clichés of crisis, the expectant shuttling of officials, the intricacy of formulas. The diplomatic graveyard in the Middle East is strewn with turning points, climatic moments and the pretensions of governments.

But if the diplomatic game seems mundane, the reality of the problem is not.

We are dealing with the hopes and fears and passions of over 90 million people.

Their conflict traces a bloody history, all the more venomous because it's within living memory. Divisions of culture and re-

ligion are inflamed on both sides by charges of genocide. Fierce nationalism pits Arab against Arab as well as against Israel.

The price is an appalling waste of precious resources.

Arabs and Israelis, people with rich traditions of learning and compassion, spend together twice as much on weapons as on schooling for their children, and five times what they invest in health care.

Four of the Arab nations have per capita incomes of less than \$1,000, yet they spend more than 10% of their Gross National Product on arms.

And over all the hate and waste is the pervasive danger of a clash between the great powers.

At stake is the survival of the region . . . and perhaps the peace of the whole world. That is why—for all the claims and formulas—our policy in the Middle East is deadly serious business. That is why we have to examine the basic assumptions that sent Secretary Rogers on this trip and other diplomatic excursions.

For I am afraid that he carried with him—over every one of those 18,000 miles—dangerous misconceptions about the Middle East and the role of the United States in bringing peace to the area.

It seems to me the principal misconception has been a chronic flaw in our policy since the beginning of the Arab-Israeli conflict.

For over two decades, we have been stuck in a dilemma of our own making.

On one hand, extraordinary factors of history and morality have given us an abiding stake in Israel's security. Five Presidents—if not always their Secretaries of State—have understood that behind the whole elaborate mess was a simple fact: we could not let Israel go under.

On the other hand—in some murky mixture of oil politics, fear of "losing" the Arabs (who were hardly "ours" to begin with), and sheer bureaucratic momentum—our diplomacy has strained mightily to disguise to everybody that irreducible interest in Israel.

It still does.

Our dilemma is that we cannot have it both ways. To disguise our ultimate interest in Israel's security is to endanger that interest by fostering miscalculations among all the parties.

An Israel unable to rely on our support, Arabs emboldened by what seems to them our equivocation, Russians tempted by our apparent irresolution—none will make the hard decisions to build a peace in everyone's interest.

Our present course runs into the logical dead-end of that dilemma—a confrontation with Israel over a "settlement."

Never mind that a meaningful settlement is probably impossible to achieve by pressuring Israel—or, even if proclaimed, that it could still damage our long-range interests.

The current pre-occupation, for instance, is the opening of the Suez Canal. We are leaning hard on the Israelis to extract the necessary concessions from them. And the immediate beneficiary will be the naval power of the Soviet Union. And an open canal, once more an important link for world commerce, would be one more hostage to Soviet diplomacy. But we seem intent on a deal—even to the point of paying to dredge the Canal ourselves. (I wish we were as anxious to clear the pollution from our own lakes and rivers.)

Not that the Nixon Administration has a corner on this sort of folly.

We should not forget—the Israelis certainly haven't—that Israel gave up the gains of the 1956 war for an all too vague formulation of support by the Eisenhower Administration . . . a promise shamefully sidestepped when the going got tough again with Nasser and the guerrillas.

When Nasser closed the Straits of Tiran in 1967, the studied hesitation of the John-

son Administration may well have confused both sides to the point of hastening hostilities rather than heading them off.

We stood by in 1967 while the UN peace force was pulled out summarily on Egypt's order. As Arab rhetoric became more inflammatory and the noose tightened on Israel's sea outlet through the Gulf of Aquaba, the U.S. leisurely debated schemes for sending in neutral flagships to "test" Arab intentions.

And when Abba Eban came to Washington that fateful spring—expecting us to produce on a decade of promises—he got embarrassed evasion and patronizing preachments on restraint.

It was not surprising that the Generals prevailed over the diplomats in Tel Aviv. Our equivocation left Israel almost no choice but to strike for her life.

That pattern of evasion and preaching has been repeated again and again by this Administration.

We drew the Israelis into the present cease-fire last fall on the condition that neither side would seize military advantage from the truce.

Then, as the Soviets stole a major tactical march by moving up their missiles under shelter of the agreement, we first denied it . . . then said we were checking . . . then said it was true, we knew it all along, and it was a bad thing. The missiles are still there, but I wonder about our credibility with the Israeli Government—let alone what the Arabs and Soviets think they can get away with.

Now, Secretary Rogers has reportedly had a quarrelsome session with Mrs. Meir to pressure her on opening Suez.

According to the *New York Times*, the Arabs are naturally pleased. Last Sunday's *Times* reported:

"With the U.S. now actively involved in the negotiating process and its big power prestige on the line, the Egyptian leadership seems confident that the focus of any American pressure . . . will be on Israel, particularly in regard to a first-stage Israeli pullback and a re-opening of the Suez Canal."

The mistakes have been shared amply, then, by both parties. They have been especially magnified, however, by the peculiar bureaucratic aberrations of the Nixon Administration.

With the White House staff openly dominating policy on the major issues of Vietnam or arms control, the State Department has tried to save its bureaucratic face by zealously trying to redraw the map of the Middle East. If the process has been therapeutic for morale, the cost has been high—an often heedless pushing for settlement for settlements' sake, policy more by adrenalin than by analysis.

But whatever the combination of misperception and mismanagement, U.S. policy has come to rest on three highly dubious assumptions.

Each is clung to with the same reverence and bravado as the "unsinkability" of the *Titanic*. And each leaves us short of lifeboats.

The first of these assumptions is that our immediate objective should be a definitive "settlement" managed from the outside. We reason that since the parties are too greedy to get together themselves, someone should do the job for them.

Yet—much as we all want peace—realistic planning, even with the current cease-fire, must begin with the high probability of some kind of continuing state of conflict in the Middle East over the next 3-5 years. Even with some kind of political settlement now, there would probably be prolonged tension and more shooting.

And putting first things first, our overriding objective should be to avoid direct U.S. involvement in those likely hostilities.

Talking about a "settlement" in this context obscures the basic issue: how to cope

with the absence of a settlement, whether it's renewed war or an imperfect truce.

Moreover, the historical evidence—from the partition of Palestine to the Straits of Tiran—argues clearly that the two sides are basically unaffected by outside efforts at mediation.

The most recent experience, in fact, is that matters can get much worse precisely when the diplomatic traffic is heaviest. Witness the hi-jacking crisis, the Jordanian civil war and the unchallenged advance of Soviet missiles amid all the diplomatic maneuvering of last summer and fall.

As for outside management, I believe external powers can and do influence events. But much more by their material investment than by their questionable ingenuity in drawing plans for somebody else's borders.

The United States can have most influence in the Middle East by clearly and firmly placing its weight behind its interests, even if we never utter a word about the details of a settlement.

We are now squandering that influence in a pretentious and almost frenzied quest for an agreement which would push Israel back to her vulnerable 1967 borders.

The *second* mistaken assumption in our policy derives from the first. It is that the U.S. can and should act as middleman in negotiations.

The argument is that the Israelis will respond to our pressure. And the Arabs need evidence that we want a fair settlement before they'll agree.

Yet as any lawyer or labor-management negotiator knows, the every task of mediation necessarily imposes an ambiguity on the mediator's relation with all parties.

The more credibly we play the mediator's *neutral* role in the Middle East, the more we defeat the very purposes of mediation.

For the Israelis, our neutral stance heightens their fears that we will abandon them. And we risk provoking a more desperate and reckless policy from them when we supposedly want just the opposite.

Israel may "need" us in the sense that U.S. budgetary and military aid is their optimum option in maintaining their defense.

But the vital Israeli decisions—those they see, such as borders, involving their existence—are *not* amenable to our leverage.

Where national survival is at stake, our influence will be effective only if we assuage fears—never if we try to exploit them.

We have authentic influence on Israel only to the degree we help remove the threat to its existence.

The hard truth is that the only chance for peace in the Middle East is Arab acceptance of Israel.

But the Arabs will never face up to that acceptance so long as outsiders hold out the prospect of forcing Israeli concessions bit by bit—which is precisely what this Administration has been holding out in its formula-mongering over the past 18 months.

As with the Israelis, our ambivalent policy only promotes Arab recklessness and intransigence.

The *third* assumption behind U.S. diplomacy—in some ways the most fashionable and foolish—has been the forecast of doom if we don't sponsor instant negotiations and a settlement. The Arabs, we are told, will grow ever more radical, and the Soviets will pick up all the chips.

Yet the evidence to the contrary is overpowering—and the attrition of the Palestinian guerrillas in the most dramatic recent example. The existence of a strong, secure Israel—able to preserve the status quo until a genuine settlement is achieved—in the long-run weakens rather than strengthens the Arab radicals who are staking everything on confrontation.

Nor can the Russians easily endure the persistent frustration of their Arab clients.

We should certainly be concerned with the Soviet influence in the Middle East. But a settlement made now in the shadow of Russian missiles will *only* enhance that influence.

Moscow's stock will go down precisely as the Arabs come to understand that Israel and the United States will *not* be moved by vacant formulas or menacing gestures.

These three assumptions have led us, then, away from the one strategic principle from which our Middle East policy must proceed—firm, unequivocal support of Israel.

The irony is that we are not choosing here—as so often in policy questions—between what is right and what works.

I personally believe we have a moral commitment to Israel. But it is equally clear that a strong Israel is also the best hope for an enduring peace in the Middle East.

And even if the standard is a more narrow measure of U.S. national interest, a strong Israel is the sole guarantee over the next decade that we will not be embroiled directly in the conflict in the area.

I should add that only a sure sense of Israeli security can keep the lid on the terrible Pandora's box of nuclear armaments in the Mid East.

None of us can predict the outline of a plausible settlement at this point.

At a minimum, however, I think we have to return to the guideline of "secure and recognized boundaries" for Israel as required in the November 1967 UN Security Council Resolution.

It also seems to me that much of the present buffer areas around Israel—to the degree that they lessen the need to mobilize and fight by an irreversible timetable—are really a *deterrent* to all-out war.

But there is no question that political realities will dictate eventually *some* kind of settlement on Israel's borders. Territory cannot indefinitely purchase safety at the expense of unrelieved Arab embitterment.

Finally, there is one absolutely essential complement to strong Israeli security—justice for the Arab refugees.

The Palestinian Arabs have been that unstable mass in the area—threatening to explode and bring the whole region down around them.

They cannot go on living in the soul-destroying squalor of the refugee camps. Another generation of Arab children cannot be left to despair and hatred.

If these injustices persist, no peace—however firm at the beginning—will last long in the Middle East.

All of us—above all, Israel, but also her friends in this country—have a responsibility to help remove that disgrace and danger.

We must make a start at that. And our government must stop trying to be something we are not.

We are *not* a disinterested mediator obliged to cool detachment toward both sides.

We are a vitally interested friend of Israel. And everyone must understand that if the long process of resignation and reconciliation is to begin at last.

Once we have set ourselves right, I think there is genuine hope for the Middle East.

We can help make it what its great human and material potential promise it could be.

A land not of the maimed and the orphaned, but of safe, healthy, self-respecting children.

A land not of pillboxes and national hatred, but of gifted peoples working together in gathering prosperity and peace.

THE EXPANSIVE USE OF HABEAS CORPUS BY THE FEDERAL DISTRICT COURTS

Mr. THURMOND. Mr. President, in the April 1971 edition of the American Bar Association Journal there appeared

a very interesting article entitled "The Case Against Modern Federal Habeas Corpus."

There is an immediate problem within our judicial system. The effectiveness of our court system is being undermined and overburdened by the present distortion in the Federal courts of the writ of habeas corpus.

The writ of habeas corpus is a fundamental instrument for safeguarding personal freedom against arbitrary State action. However, this writ has currently been abused. It has become nothing more than a routine means for direct review of State court criminal decisions in Federal district courts.

Mr. George Doub points out that a State prisoner does not need to bother to assert his claim of Federal review in the course of his State trial or even on his State appeal from conviction. He can deliberately fail to ask for Federal review and still get Federal review of the State conviction by use of the writ of habeas corpus.

Allowing the writ of habeas corpus to be used in this manner casts doubts as to the strength and credibility of our State court system. State judiciaries rightfully resent this encroachment upon their decisionmaking areas. The current use of this writ has given Federal district judges a power of review far in excess of what is realistic or reasonable. These comments deserve the consideration of Congress.

Mr. President, I ask unanimous consent that the article from the April 1971 American Bar Association Journal entitled "The Case Against Modern Federal Habeas Corpus" be printed in the RECORD at the conclusion of my remarks.

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

THE CASE AGAINST MODERN FEDERAL
HABEAS CORPUS

(By George Cochran Doub)

The erosion of public respect for the judicial system has seriously harmed the effectiveness and credibility of this vital branch of government. As the courts become overwhelmed with backlogs of civil and criminal cases, concerned judges and lawyers have sought the development of new concepts of administration, the training and appointment of administrative officers, the better management and control of trial court calendars and the development of more efficient systems of record management.

These palliatives are helpful, but they cannot cure the disease of the patient; that can only be done by at least some minimal surgery. This is particularly true of the current distortion in the federal courts of the great writ of habeas corpus, which has debased the writ by making it nothing more than a routine vehicle for the review by the federal courts of state court criminal judgments.

THE PROBLEM IS A SELF-INFLICTED WOUND

The federal habeas corpus problem was not thrust upon the federal judiciary by the Constitution or the Congress. It was created by the Supreme Court in comparatively recent years under circumstances which suggest that the Court had no realization at the time of the crippled offspring it was unwittingly spawning. In retrospect, the resulting deluge of federal habeas corpus petitions of state prisoners, which has been suffocating district courts as well as the court

of appeals, has made clear that the problem is not congenital. It is a self-inflicted wound.

The Constitution says no more than that "the Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public safety may require it". The clause denies the power of the legislative and executive departments to suspend the privilege except under the circumstances stated, but it does not define the scope of the privilege.

The power of the federal district courts to issue the writ is statutory because of the principle that they possess only such jurisdiction as is expressly granted to them by Congress. The Judiciary Act of 1789 provided that the courts of the United States should have power to issue writs of habeas corpus to inquire into the cause of commitment, provided that writs of habeas corpus should in no case extend to persons unless in custody under the authority of the United States. Thus the power of the federal courts to issue the writ was carefully circumscribed and limited to persons in federal custody. No jurisdiction was conferred to inquire into the legality of custody of anyone by a state.

It was not until 1867, during Reconstruction, that the jurisdiction of the federal courts was widened by a provision that the writ might issue "in all cases where any person may be restrained from his or her liberty in violation of the Constitution or any treaty or law of the United States". Then for the first time the federal courts obtained the power to inquire into the legality of state criminal judgments. This provision is now codified in 28 U.S.C. § 2241 (c) (3).

When the Supreme Court solemnly proclaimed in *Harris v. Nelson*, 394 U.S. 286, 290 (1969), that "the writ of habeas corpus is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action", the Court ignored the fact that during the first seventy-five years of our nation's history the federal courts had no power to review state court criminal judgments by way of habeas corpus.

From 1867 until about 1952 the Supreme Court manifested judicial discipline and restraint with respect to federal habeas corpus, a regard for state judicial processes, and an intuitive sense of the dangerous disorders which would accompany successful collateral attacks upon the finality of state court judgments.¹ A question of fact or of law distinctly put in issue and determined by a court of competent jurisdiction could not be reviewed later on federal habeas corpus. State court judgments that rested on independent state grounds could not be reviewed although federal claims were present. Only if an applicant had not been afforded an opportunity in the state court to raise his federal claim could it be heard.

Since 1952 the principle of federal judicial restraint has not slowly eroded; it has been cast away by a majority of the Supreme Court in the appealing name of personal liberty.

EXPANSION OF FEDERAL HABEAS CORPUS
CONCEPT BEGINS

The drastic expansion of the federal habeas corpus concept began in *Brown v. Allen*, 344 U.S. 443 (1953), in which the federal claims of a state prisoner had been presented to the highest court of the state on direct appeal from conviction, had been rejected by that court on the merits and certiorari had been denied by the Supreme Court. On appeal from the denial of a federal habeas corpus petition, the Supreme Court held that *Brown* was entitled to reconsideration of his constitutional claims on his later application to a federal district court.

In *Irvin v. Dowd*, 359 U.S. 394 (1959), *Irvin's* conviction was affirmed upon appeal by the supreme court of a state. In reversing dismissal of his later application for federal habeas corpus, the Supreme Court held that this state court decision had rested on the determination of *Irvin's* federal claim and therefore his claim should be considered by the district court on federal habeas corpus. Thus, under *Irvin*, as well as *Brown*, the federal district courts were deemed to be not only authorized but obligated to review decisions of state supreme courts on federal questions.

In 1963 in *Fay v. Noia*, 372 U.S. 391, the Supreme Court decided that federal habeas corpus for state prisoners lies, despite the existence of an adequate and independent nonfederal ground for the state judgment of conviction, pursuant to which the applicant was detained by the state. After conviction, *Noia*, with competent counsel, deliberately elected not to appeal his conviction and years later sought federal habeas corpus on the ground that a confession obtained from him was unlawful because coerced. Under *Noia*, even a deliberate and intentional choice not to assert a constitutional claim on appeal did not preclude its later assertion on federal habeas corpus; a failure to exhaust state remedies did not preclude federal habeas corpus. The Supreme Court emasculated the doctrine embodied in 82 U.S.C. § 2254, which requires the exhaustion of state remedies, by holding that the statute referred only to state remedies available when the application for federal habeas corpus was filed.

TIDAL WAVE OF APPLICATIONS IS "JUDGE-MADE
BUSINESS"

Chief Judge Lumbard of the Court of Appeals for the Second Circuit said last September of the tidal wave of habeas applications.

"This is judge-made business, resulting principally from the 1963 Supreme Court decision in *Fay v. Noia*, which held in effect that there was no finality to any state court criminal case so long as the prisoner made Constitutional claims and some federal judge entertained doubts about whether these questions had been fairly resolved by the state courts."²

In *Jackson v. Denno*, 378 U.S. 368 (1964), the Supreme Court held unconstitutional the established New York state practice with respect to the admissibility of admission. This "New York rule", which had been followed in sixteen states and six federal circuits, is that, when there is a factual conflict in the evidence as to the voluntariness of a confession over which reasonable men may differ, the judge leaves the question of voluntariness to the jury. This decision was contrary to prior decisions of the Court rendered as recently as 1953, 1958 and 1959.³

This due process question had not been presented to the state trial court or on appeal. Indeed, experienced counsel for the defendant had not even objected to the admissibility of the statements made and had not requested a preliminary court hearing on voluntariness, which was permitted under the New York procedure. One would suppose that under these conditions the federal claim was not even germane to the case. But the Supreme Court directed that petitioner be released unless the state retried him or afforded him an independent court hearing on the voluntariness of his admissions. Understandably, the Court did not conclude that the admissions were involuntary.

The Supreme Court has held that the doctrine of *res judicata* does not apply in the federal habeas corpus field and the denial of a state prisoner's application for collateral relief on habeas corpus is not *res judicata*, this on the theory that conventional notions of finality of litigation have no place when

Footnotes at end of article.

personal rights are at stake and their infringement is alleged.⁴ Separate and successive habeas corpus applications may be filed and heard, provided each presents a different claim for relief.

SUPREME COURT ENUNCIATES REQUIREMENTS

A perplexing problem for federal district judges on applications for habeas corpus has been the extent to which they must determine the merits of factual disputes forming the basis of the prisoner's federal question claim. 28 U.S.C. § 2243 provides: "The court shall summarily hear and determine the facts, and dispose of the matter as law and justice require." In *Townsend v. Sain*, 372 U.S. 293 (1963), the petitioner had objected to the introduction of his confession in a state trial on the ground that it was the product of coercion. The confession was admitted, the petitioner convicted and his conviction affirmed by the state supreme court. After exhausting his postconviction remedies in the state courts, he filed a petition for habeas corpus in a federal district court. In reversing the denial of his application, the Supreme Court enunciated requirements relating to habeas corpus hearings. It declared that a federal district court must grant an evidentiary hearing to a habeas corpus applicant if (1) the merits of the factual dispute were not resolved in the state hearing, (2) the state factual determination was not fairly supported by the record, (3) the fact-finding procedure utilized by the state court was not adequate to afford a full and fair hearing, (4) there was a substantial allegation of newly discovered evidence, (5) the material facts were not adequately developed at the state hearing, and (6) for any reason the state trier of the facts did not afford the applicant a full and fair hearing.

In discussing each of these requirements the Supreme Court interpreted them broadly. It further said that when these tests were not applicable and the material facts were in dispute, the holding of a factual hearing was in the discretion of the district judge, and even if he concluded that the applicant had been afforded a full and fair hearing by the state court, resulting in reliable findings, he need not accept the facts as so found. "In every case [the federal district judge] has the power, constrained only by his sound discretion, to receive evidence bearing upon the applicant's constitutional claim." Although the district judge may, when the state court has reliably found the relevant facts, defer to the state court's findings of fact, he is not obliged to do so, and important factual determinations may be made on a new record.

When a federal trial judge may be required to hold an independent factual hearing and on a record totally at variance with that before the state trial court, and in effect reverse its decision, are not the elements of judicial anarchy present?

INCREASE IS ASTOUNDING BUT NOT SURPRISING

It is not surprising that as the result of the recent expansion of the federal habeas corpus concept, the federal district courts have been swamped with habeas corpus applications from state prisoners. The increase is illustrated by the fact that state prisoner habeas corpus petitions have increased from eighty-nine in 1940 to 12,000 in 1969, according to the figures of the Administrative office of the United States Courts. In a five-year period from 1939 to 1944, one person presented in the district court fifty petitions for writs of habeas corpus; another, twenty-seven; a third, twenty-four; a fourth, twenty-two; a fifth, twenty. One hundred and nineteen persons presented 57 petitions—an average of five per person.⁵

THE STATES: CAN THEY HELP?

In his admirable address, "The State of the Judiciary—1970", before the Annual Meeting

of the American Bar Association in St. Louis in August, 1970, Chief Justice Burger, after pointing out that the federal district courts had been obliged to review more than 12,000 state prisoner petitions in 1969, as compared with eighty-nine in 1940, said:

"There is a solution for the large mass of state prisoner cases in federal courts—12,000 in the current year. If the states will develop adequate post-conviction procedures for their own state prisoners, this problem will largely disappear and eliminate a major source of tension and irritation in state-federal relations."⁶

This echoed a similar statement by Chief Judge Lumbard, Chairman of the Special Committee on Minimum Standards for the Administration of Criminal Justice of the American Bar Association, in May of 1966:

"We shall recommend adoption by the states of adequate remedies so that federal court review of state convictions will be reduced to a minimum and the facts on which such federal relief is sought will, so far as possible, be found and determined by the state court."⁷

The report of the Committee on Habeas Corpus of the Judicial Conference of the United States, known as the Phillips Committee, in September of 1966, recommending certain statutory amendments, demonstrated that even when fully adequate postconviction remedies are made available to state court prisoners, there is no reduction in the number of applications for writs of habeas corpus filed in the federal courts by state prisoners. The report pointed out that in Delaware, Florida, Kentucky, Missouri, New Jersey, North Carolina, Oregon and West Virginia applications for writs of habeas corpus to federal courts by state prisoners had continued to increase notwithstanding satisfactory postconviction remedies that had been provided those state prisoners.

The hopes expressed by the Chief Justice and Judge Lumbard may not be realized because they are based on the fallacious assumptions that when applications are filed, the federal district judges need do no more than examine the state postconviction findings of fact and that the district judges are bound by those state findings. In fact, under the directives of the Supreme Court, the federal district courts may be obliged to grant an evidentiary hearing to an applicant and to retry the factual issue involved in the state proceeding in order to meet the *Townsend* standards. Although adequate state postconviction findings of fact make it more likely that the federal courts will not overrule them and often they are accepted, those courts are not constrained to follow them. Adequate state postconviction remedies are not the full answer. They do not result in any substantial reduction in the petitions or the burden imposed on the federal district courts to review the factual and legal issues.⁸

FEDERAL LEGISLATION SEEMS TO BE THE ONLY METHOD

As Justice Clark pointed out in *Noia*, federal legislation seems to be the only method to restore the federal writ of habeas corpus to its proper place in the federal judicial system. That place is one of great importance—an ultimate, exceptional remedy against illegal restraint—but it should not be a substitute for or an alternative to appeal, nor should it be a burial ground for state appellate rules or adequate state procedures.

Certain amendments were made to the habeas corpus statutes in 1966 at the instance of the Judicial Conference upon the recommendations of the Phillips Committee. These amendments integrated into the statutes most of the standards defined in *Townsend*.

Although the Phillips Committee's recommendations were designed to reduce habeas corpus applications, its report made clear

that the members of the committee, as federal judges, considered that they were bound by the opinions of the Supreme Court in *Fay v. Noia*, *Sanders v. United States* and *Townsend v. Sain*. Accordingly, the amendments seem to integrate into the statute the expansive concepts of habeas corpus jurisdiction developed by the Supreme Court and to write into the statute, which can be changed only by the Congress, words from majority opinions of the Supreme Court that otherwise might later be modified by that Court.

Objections to this new expanded jurisdiction of the federal district courts are far more profound than case statistics.

WE HAVE LITTLE CONFIDENCE IN OUR JUDICIAL SYSTEM

Conviction in the state courts now has become merely the starting point of interminable litigation. State appeals are followed by successive petitions for federal habeas corpus and successive federal appeals. What is involved is a repetitious, indefinite, costly process of judicial screening, rescreening, sifting, resifting, examining and re-examining of state criminal judgments for possible constitutional error. The protection of constitutional rights is the cornerstone of our system of criminal justice, but are the state judicial systems so weak, so inadequate as to require discarding all the traditional principles of *res judicata* and estoppel? No other nation in the world has so little confidence in its judicial systems as to tolerate these collateral attacks on criminal court judgments.

Under *Denno* a state prisoner need not bother to assert his federal claims in the course of his state trial or on his state appeal from conviction. Even when he is represented by experienced counsel he need not accord the state trial judge or the state appellate judges an opportunity to hear and decide those claims as a precondition for federal habeas corpus. The hospitable federal system will hear his claims, although fair and reasonable state procedures are left in a shambles.

Under the new concept of federal habeas corpus, the state prisoner may now deliberately elect not to appeal his conviction to a state supreme court and elect to have the validity of his conviction determined by habeas corpus in a federal district court. If he has appealed unsuccessfully to his state supreme court, he may then deliberately elect not to apply to the Supreme Court of the United States for certiorari and instead seek a writ of habeas corpus in a federal district court. Even if he has petitioned successfully for certiorari and the petition granted and the judgment affirmed, he may have the issue reviewed by the district court on habeas corpus if he alleges a fact not in the prior record.

This comparatively new concept of federal habeas corpus has dangerously prejudiced the delicate balance of federal-state relations and has seriously degraded the authority of the states and their judicial tribunals.

RESENTMENT BY THE STATE JUDICIARIES IS NOT HEALTHY

There is perhaps no single attribute of federal judicial power more abrasive of the relations of the states and the Federal Government than the overexpansion of the great writ of habeas corpus by the federal courts as applied to state prisoners. State judges who do not bitterly resent the new concept of habeas corpus jurisdiction of the federal district courts are few. When federal trial judges are required to reconsider and review decisions of state trial judges and even decisions of state supreme courts, state judges cannot fail to recognize that their status has been downgraded to one of increasing inferiority to the federal bench. With the multiplication of federal statutes dealing with matters that before had been left to the states, the expansion of federal jurisdiction

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has been inevitable. But in the case of federal habeas corpus jurisdiction state judges know that expanded jurisdiction has not been forced on the federal courts by Congress but that it is judicially expanded power. This resentment by the state judiciaries against the federal judiciary is not healthy or wholesome.

No valid criticism may be made of the patient handling of habeas corpus petitions by the federal district courts. Those judges have exercised admirable restraint in their almost daily and routine task of dealing with petitions from state prisoners. Each petition must be defended by the state attorney general. Successive applications may attack in turn each step in the state proceeding in addition to the police, trial judges and the competence of defense counsel. The burden of the states of defending these applications is costly. In Maryland three assistant attorneys general do nothing else.

WE ARE WITNESSING A TRANSFORMATION

We are witnessing a fundamental transformation by the decisional process in the relationship of the federal and state judicial systems. Federal district judges now exercise through their habeas corpus jurisdiction a power of review of state court criminal judgments far in excess of the power of any appellate court, including the Supreme Court of the United States. The procedural framework within which the federal review of state judgments operates is derived from a legacy of a time when federal review was rare and extraordinary. Even those who applaud federal court review of state court judgments concede that appellate review by a single federal judge is an anomaly, "the product not of design but of historical accident".⁹

Any discussion of this problem requires consideration of the human values involved and the recognition, as Learned Hand said, that "There is no democracy among human values, however each may cry out for an equal vote."¹⁰ Does our dedication to the spirit of liberty and justice require these extensive review procedures for the protection of the innocent? Judge Lumbard has said, "For all our work on thousands of state prisoner cases I have yet to hear of one where an innocent man has been convicted. The net result of our fruitless meddling in search for the non-existent needle in the ever-larger haystack has been a serious detriment to the administration of criminal justice by the states."¹¹ The question involved in a habeas corpus application is not guilt or innocence of the petitioner and, indeed, that issue is irrelevant to the federal inquiry. Nor is the fact that the evidence in the state case plainly established the guilt of the petitioner a relevant circumstance. On the contrary, the federal court is concerned solely with the malleable nuances of due process that now attach to every step in the criminal process—detection, search, interrogation, confession, arrest, arraignment, trial and appeal.

WHAT IS THE PROBLEM?

If one could believe that the overriding problem of our time is the conviction of innocent persons by the state courts, perhaps these endless review procedures are justified, but it is difficult to believe that this is so. Certainly state procedures are far superior to those of many decades ago when Justice Holmes said in *Kepler v. United States*, 195 U.S. 100, 134 (1904): "At the present time in this country there is more danger that criminals will escape justice than that they will be subjected to tyranny."

As the nation wallows in lawlessness, is not the overriding problem the detection and conviction of criminals within the framework of the new attributes of due process, a problem in which most constitutional theorists have no interest?

Under no circumstances should application for habeas corpus continue to be a standard routine vehicle for collateral attack on and review by federal district courts

of the validity of state court judgments. Nor should state prisoners be permitted to bypass reasonable state trial and appellate procedures. Nor should the great writ become a plaything or racket for penitentiary inmates.

CONSIDERATION SHOULD BE GIVEN TO REVISION

Since the Constitution is not a "suicide pact" (to quote Justice Jackson),¹² does not compel judicial anarchy and recognizes that the scope of federal habeas corpus is statutory, consideration should be given to the revision of 28 U.S.C. §§ 2243, 2244 and 2254 to make clear:

1. The federal district court may summarily hear and determine the facts only when they have not been determined by the state court in the course of fair proceedings.

2. An application for a writ of habeas corpus should not be granted when the applicant was afforded a fair and adequate opportunity to raise his claim in the course of the proceeding resulting in the judgment, but he elected or failed without justification to do so.

3. An application should not be granted when there exists an adequate and independent nonfederal ground for the judgment of conviction.

4. When the applicant was represented by competent counsel in the proceeding resulting in the judgment, it should be presumed that the applicant had knowledge of his federal claim and his failure to assert it in that proceeding should be deemed an abuse of the writ.

5. The burden of proof should be on an applicant to establish that his failure to raise a newly asserted federal claim in the course of the federal or state court proceeding resulting in the judgment is not an abuse of process.

6. When the court believes that an application may have merit, it should appoint counsel for the applicant, who must include in his application or amended application all federal claims. A subsequent application should be deemed an abuse of the writ.

7. The court should be entitled to consider whether the length of time that has elapsed between the facts complained of and the application, or between a previous application in a court of the United States or of any state under the corrective processes provided by the state and the present application, prevents a fair and reliable inquiry into the issues presented by the application or will prevent reprosecution or correction of the error complained of, and the court in its discretion may determine that the failure of the applicant to make the application within a reasonable time has resulted in an abuse of process.

These recommended changes in the federal habeas corpus statutes are self-explanatory and would seem constitutional because they relate to matters of practice and procedure. If they do not end the surrealist ballet, consideration may then be given to the adoption of the traditional and present practice in England precluding appeals from the denial of habeas corpus applications.

More important than any suggested changes in federal habeas corpus statutes, Congress should establish a judicial conference of the United States and the states, to be composed of the Chief Justice of the United States, the chief judges of the ten federal circuit courts of appeals and the chief justices of ten state supreme courts.¹³ At the present time, the state judiciaries, which have the principal responsibility for the maintenance of law and order within their borders and are seriously affected by federal legislation, have no official forum where they may be heard. Such a judicial conference would provide an important place for their voice and the means for needed collaboration between the federal and state judicial systems.

The Judicial Conference of the United States, composed entirely of federal judges, has been able to make signal contributions to federal practice and procedure, but in the field of federal habeas corpus the conference has felt compelled to accept not only the rulings but the dicta of recent Supreme Court opinions relating to habeas corpus practice. The proposed judicial conference of federal and state judges would bring to bear a far broader approach and perspective, and its recommendations might prove beneficial and constructive with respect to the perplexing problems of federal and state judicial relationships.

If such a judicial conference is established, its first order of business should be to review the federal habeas corpus statutes and to make recommendations for amendments.

FOOTNOTES

1. For example, *Darr v. Burford*, 339 U.S. 200 (1950).

2. 25 RECORD N.Y.C.B.A. 516 (1970).

3. *Stein v. New York*, 346 U.S. 156 (1953); *Payne v. Arkansas*, 356 U.S. 560, 568 note 15 (1958); and *Spano v. New York*, 360 U.S. 315, 324 (1959).

4. *Sanders v. United States*, 373 U.S. 1 (1963). Although this decision involved the interpretation of Section 2255 of the Judicial Code, the principles defined are applicable to federal habeas corpus cases.

5. Reviser's Note to 28 U.S.C. § 2244, citing H. Rep. 308, 80th Cong. See also, *Dorsey v. Gill*, 148 F. 2d 857, 862 (D.C. Cir. 1945).

6. 56 A.B.A.J. 929, 931 (1970).

7. *New Standards for Criminal Justice*, 52 A.B.A.J. 431, 434 (1966).

8. *United States ex rel. Rutherford v. Deegan*, 460 F. 2d 217, 220 (2d Cir. 1969); *Worts v. Dutton*, 395 F. 2d 341 (5th Cir. 1968); *Hamric v. Bailey*, 386 F. 2d 390, 393 (4th Cir. 1967).

9. Mayers, *Federal Review of State Convictions*, 50 JUDICATURE 168 (1967).

10. HAND, *THE SPIRIT OF LIBERTY* 113 (3d ed. 1960).

11. *Supra* note 2, at 516.

12. *Terminiello v. Chicago*, 337 U.S. 1, 37 (1949).

13. In his state of the judiciary address, *supra* note 6, Chief Justice Burger recommended a state-federal judicial council in each state and a national judiciary council with equal representation from each branch of government. The local state-federal judicial councils would be impotent, and the national judiciary council would have no representation from the states.

GENOCIDE CONVENTION FALLS WITHIN THE TREATYMAKING POWER

Mr. PROXMIER. Mr. President, one of the important issues concerning the ratification of the Genocide Convention is whether it falls within the constitutional limits of Congressional authority. Are we actually authorized to make such a treaty? In my opinion, there should be no question on that score.

When the Senate Foreign Relations Committee held hearings on the convention in 1950 Robert P. Patterson of the U.S. Committee for the United Nations Genocide Convention submitted a statement which included an excellent discussion of this question. The issues involved have not changed since 1950, and his statement is still relevant. Mr. President, I ask unanimous consent that that portion of Mr. Patterson's statement which discusses this question be printed in the RECORD at this point.

There being no objection, the excerpt

was ordered to be printed in the RECORD, as follows:

STATEMENT BY MR. PATTERSON
THE "CONSTITUTIONAL" ARGUMENTS AND THE
TREATY-MAKING POWER

Attack is made upon the use of the treaty-making power to punish genocide. It is claimed that use of the treaty-making power is no proper substitute for domestic legislation on essentially domestic matters. What the opposition overlooks is that genocide is not a domestic matter and that the foreign policy of the United States must of necessity be broad enough to carry out our international obligations and permit us to conduct our foreign relations. If it is essential for the United States to stand up and be counted in the family of nations on matters which we and all other nations consider to be of grave international concern, that determination must be made, under our Constitution, by the Executive with the concurrence of the Senate.

It is contended that the crimes sought to be defined would normally be domestic crimes within the jurisdiction of the several states of the Union. Hence, it is argued, the Federal Government has no jurisdiction under the treaty-making power. The argument, in essence, is that if a subject be normally within the competence of the several states, it may not also be dealt with under the treaty-making power.

Aside from the answer of history, the short answer is that if that were so, the United States could not participate in any international codification at all which aims at creating individual responsibility for international crimes. For the several states of the Union may not "enter into any treaty" (United States Constitution, Art. I, § 10). And if the United States themselves could not do so, there would be an utter lack of constitutional power to carry out international obligations and we would indeed be "but incompletely sovereign."

In the words of the Supreme Court:

"If the National Government has not the power to do what is done by such treaties, it cannot be done at all, for the states are expressly forbidden to 'enter into any treaty, alliance, or confederation.'" (*Hauenstein v. Lynham*, 100 U.S. 483, 490).

The exercise of the treaty-making power is not in derogation of states' rights. By express constitutional grant, the Federal Government is the representative of the States in dealing with foreign relations. In international affairs it acts for all the states under our federal system.

As the Supreme Court has said:

"Complete power over international affairs is in the national government and is not and cannot be subject to any curtailment or interference on the part of the several states." (*United States v. Belmont*, 301 U.S. 324, 331).

In reaching this conclusion the Court turned to Madison's debate in the Virginia Convention; analyzed the "external powers of the United States" and declared that "the supremacy of a treaty in this respect has been recognized from the beginning". (3 *Elliott's Debates* 515.)

The Supreme Court has recognized that reciprocal international obligations under the law of nations must be carried out by the Federal Government itself. The Supreme Court has said (per Chief Justice Waite):

"There is no authority in the United States to require the passage and enforcement of such a law by the states. Therefore, the United States must have the power to pass it and enforce it themselves, or be unable to perform a duty which they may owe to another nation, and which the law of nations has imposed on them as part of their international obligations. This does not, however, prevent a state from providing for the punishment of the same thing." (*United States v. Arjona*, 120 U.S. 479, 487.)

The very impact on our foreign relations makes international arrangements by individual states of the Union impracticable. The reserved powers of the Tenth Amendment have never been construed by the Supreme Court to limit the expressed supremacy of treaties over state constitutions and state laws in the Sixth Article of the Constitution.

The Article specifically provides that:

"All Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

The founding fathers recognized that treaties must prevail over state constitutions and state laws. The treaty power itself has never been limited. The framers of our Constitution thought "it most safe", in Madison's words, to leave the treaty power without enumeration, "to be exercised as contingencies may arise." (3 *Elliott's Debates*, 514—2d Ed. 1836-1866.) The sweep of the treaty-making power, considered in our own times, was well expressed in the classic statement of Chief Justice Hughes (23 *Proc. Am. Soc'y of International Law* 194-1929):

"I think it perfectly idle to consider that the Supreme Court would ever hold that any treaty made in a constitutional manner in relation to external concerns of the nation is beyond the power of the sovereignty of the United States or invalid under the Constitution of the United States where no express prohibition of the Constitution has been violated."

In short, the reserved powers of the states in the Tenth Amendment of the United States Constitution are specifically limited by Article VI—the supremacy clause, and by the treaty-making power. (*Missouri v. Holland*, 252 U.S. 416-434).

"The powers of the states . . . set no limit to the treaty-making powers." (252 U.S. at 434) ¹

The treaty-making power "extends to all proper subjects of negotiations between nations." (*Geofroy v. Riggs*, 133 U.S. 258, 266; *Asakura v. Seattle*, 265 U.S. 332, 341; *Santovincenzo v. Egan*, 284 U.S. 30; see Corwin, *The Constitution, What it Means Today* (1947) p. 100).

Discussing the treaty-making power at a meeting in 1907 of the American Society of International Law, Elihu Root summed up in these words "So far as the real exercise of the power goes, there can be no question of state rights, because the Constitution itself, in most explicit terms, has precluded the existence of any such question." (*Proceedings* 1907, pp. 49-50). No limit has ever been set by the Supreme Court as to what are "the proper subjects of negotiations between nations."² Unless a treaty were contrary to a specific prohibition of the Federal Constitution, or actually destroyed the individual states, or ceded their territory, it is plain that the Court will not interfere with the treaty-making power as vested in the President and Senate. (*Geofroy v. Riggs*, *supra*, at p. 267).

¹ See also Corwin, *National Supremacy, Treaty Power v. State Power* [1913]; also Corwin, *The Constitution, What it Means Today*, p. 101, 10th Ed. 1948).

² Many treaties have dealt with subjects which are within Congressional power under other articles of the Constitution. See, for example, the variety of agreements, which concern matters otherwise the subject for regulation under the commerce power. These include agreements which affect customs duties and the regulation of commerce, such as commercial aviation, trade-marks, agriculture, trade in dangerous drugs, and traffic in women, among others. *Weinfeld, Labor Treaties and Labor Compacts*, 5 (1937). Treaties have also extended to copyrights,

The opposition overlooks the long history of federal treaty-making on subjects that are ordinarily within the competence of the states. It has been uniformly held that a treaty prevails over state law, despite the otherwise admitted competence of the state to deal with the subject. The reason for the treaty need be no more than to strengthen the friendly relations between nations. (*Asakura v. Seattle*, *supra*.)

Thus, the right of aliens to hold land within a state and the right to engage in pawn-broking from which the state sought to exclude aliens have been sustained under the treaty-making power. (*Geofroy v. Riggs*, *supra*; *Asakura v. Seattle*, *supra*). The power of the Federal Government to regulate the protection of migratory birds, under the treaty-making power, has been sustained. (*Missouri v. Holland*, 252 U.S. 416), despite recognition that normally the subject was within state jurisdiction. If the United States can constitutionally, under the treaty-making power, protect migratory birds, there is no reason why it cannot constitutionally protect groups of human beings.

"OFFENSES AGAINST THE LAW OF NATIONS"

The argument is advanced that, under Article I, Section 10 of the Constitution, Congress shall have power "to define and punish . . . offenses against the law of nations," and that, therefore, the President and the Senate may not make treaties of that kind. We have seen no authority cited in support of that proposition. The treaty-making power in Article II of the Constitution is concurrent with the Congressional power in Article I, as in the case of naturalization. (*U.S. v. Reed*, 73 F. 2d 153, cert. den. 299 U.S. 544).³ Congress has power to define offenses against the law of nations, but that power does not limit the treaty-power. In *Asakura v. Seattle*, 265 U.S. 332-341 the Supreme Court declared: "The treaty-making power of the United

naval armament, and taxation, each of which equally comports with a specifically granted power. See also, *Anderson, Extent and Limitations of the Treaty Power*, 1 *Am. J. Int'l L.* 636, 657 (1907).

³ The question as to the power of Congress under Art. I, Sec. 10, of the Constitution "to define and punish piracies and felonies committed on the high seas and offenses against the law of nations" arose squarely in *U. S. v. Flores*, 289 U.S. 137, in an admiralty case. There the Supreme Court analyzed the relation of the Section just quoted to Art. III, Sec. 2 of the Constitution by which the judicial power of the U. S. was extended to all cases of admiralty. Though no treaty question was involved, the court's unanimous decision (opinion per *STONE*, C. J.) shows that the power of Congress are not exclusive but complementary with other powers such as that of treaty-making.

Considering the two clauses before the Court, the Chief Justice said (149-50):

"The two clauses are the result of separate steps independently taken in the Convention . . . To construe the one clause as limiting rather than supplementing the other would be . . . to deny both the states and the National Government powers which were common attributes of sovereignty before adoption of the Constitution . . . We cannot say that the specific grant of power to define and punish felonies on the high seas operated to curtail the legislative or judicial powers conferred by Art. III, § 2."

The lower court was reversed. Solicitor General Thos. D. Thatcher's brief urged successfully (p. 139) that the two clauses of the Constitution are "complementary . . . To construe the express power to define and punish piracies . . . as an executive definition of the power of Congress . . . would at one bring the two clauses into irreconcilable conflict with the result that a power inherent in sovereignty would be found to reside neither in the States nor the United States."

States is not limited by any express provisions of the Constitution."

It extends, said the court, "to all proper subjects of negotiation between our government and other nations."

In *Santovincenzo v. Egan* (283 U.S. 3040) Chief Justice Hughes stated that: "the treaty-making power is broad enough to cover all subjects that properly pertain to our foreign relations."

The true significance of Article I, Section 10, is that it makes manifest that the founding fathers did not consider "offenses against the law of nations" to be limited to those which existed in 1789, but that an expanding law of nations was in contemplation. The extent of such expansion has been well indicated by Secretary of State Stimson. In 1932 he instructed the American Delegation at the Disarmament Conference in Geneva that "this Government could, on the basis of a treaty, exercise control of the manufacture of munitions." (*Hackworth, Digest of International Law*, p. 21). Thus Secretary Stimson also showed how treaties can lawfully impose individual responsibility.

USE OF TREATY-MAKING POWER

The use of the treaty-making power to define new "offenses against the law of nations" is a matter of history. Thus various multipartite treaties defining new offenses against the law of nations have been made by the President and ratified by the Senate alone. Among these are:

The Convention on Slavery, United States Treaty Series No. 383 (1890), and United States Treaty Series No. 778 (1926);

Treaty for the Suppression of the Opium Trade, United States Treaty Series No. 61 (1883), and United States Treaty Series No. 612 (1913);

The Convention on Obscene Publications, United States Treaty Series No. 559 (1911);

The Convention for the Suppression of the White Slave Traffic in Women and Children, United States Treaty Series No. 496 (1904);

Multilateral Treaty for Persons Breaking or Injuring Submarine Cables, United States Treaty Series No. 380 (1889);

Multilateral Treaty Re Slavery adhered to by the United States, March 21, 1929, Slave Trade, United States Treaty Nos. 383, 778.

All of these treaties created new "offenses against the law of nations."⁴ They were based on creating individual responsibility for violation of those treaties; but it has never been thought that they limited the Treaty making power.

⁴ Judge Manley O. Hudson in an address to the American Bar Association on September 11, 1944 (30 A. B. A. Journal 562 et seq.), in discussing the International Law of the future, refers to those people who are "hesitant to support even modest proposals for international organization for fear of a loss of national sovereignty." This is the old, old fear which attacks the cautious genocide proposals. "As a matter of law", Judge Hudson continues, "the sovereignty of each state is subject to the international law which regulates the relations of states . . ." Stressing the far-reaching nature of the treaty making power, he observes that limitations thereon "would mean the undoing of the great constructive work of John Marshall . . . would fly in the face of the fact that no provision in any of the hundreds of treaties which we have concluded . . . has ever been authoritatively pronounced to be beyond the constitutional power of our Federal Government". (p. 563). He refers (p. 591) to "the great series of multipartite international agreements which now cover many phases of our everyday life . . . With restoration of peace fresh opportunity will come to us to continue the legislative process." This is the opportunity which a group of lawyers would discard.

The position assumed by the opposition is, in effect, that matters of international consequences, submitted by the General Assembly within the framework of the United Nations, require ratification by the individual states of our Union. No other result can flow from the argument that punishment of international crimes is within the exclusive competence of the states of the Union. The argument falls to take into account the international character of the crime, and would abolish one of the cardinal foundations of our federal system—that the treaty-making power is not within the competence of the individual states but is in the executive subject to approval by the Senate. The framers of the Constitution might have insisted that the treaty-making power be subordinate to the powers of the states. Instead, (in the light of the failure of the Articles of Confederation) they specifically provided for the essential supremacy of treaties over state law.

The argument of the opposition actually presupposes a conflict between state and federal power which does not exist. The assumption is that federal punishment of genocide would be repulsive to the states. Yet no reason is offered as to why the states should be less eager to punish genocide than mankind in common. The states are represented in the Senate. And as John Jay (later the first Chief Justice of the Supreme Court) said (in answer to the objection that the President and the Senate may make treaties "without an equal eye to the interests of all the states"): "As all the states are equally represented in the Senate, and by men the most able and the most willing to promote the interests of their constituents, they will all have an equal degree of influence in that body . . ." (*Federalist Papers*, No. 64).

The plain fact is that one cannot ratify common international action by separate submissions to forty-eight state legislatures. Most of what is embraced within the crime of genocide is already punishable by state law. Murder and assault, together with conspiracy and incitement, are already domestic offenses.

THE SOVIET UNION IS AGAIN ON TRIAL

Mr. RIBICOFF. Mr. President, the cynical persecution of Soviet Jews by the Soviet Government continues with the announcement of the trial of four Soviet Jews in Riga. This follows the sentencing of nine Soviet Jews to the living death of Siberian prison camps in Leningrad only 5 days ago.

Among the four latest victims of Soviet anti-Semitism is 23-year-old Ruth Aleksandrovich, who has steadfastly sought to emigrate to Israel. The real crime of these defendants is their courageous insistence that Soviet law regarding the treatment of minorities be applied to the 3 million Jews in the Soviet Union. The Soviet Government's systematic eradication of Jewish life exposes all too clearly the true motives of a regime which purports to treat all religions with equal indifference, but the Jewish religion differently and unequally.

As long as Soviet Jews are not permitted to live as Jews, they will continue to seek escape from what is becoming a graveyard of their religion and culture. And as long as foreign observers, jurists, and newsmen are barred from the trials taking place, Soviet justice will continue to be a travesty.

Mr. President, the brutal and repressive actions by their government against Soviet Jews is a logical outgrowth of the

development of a system which can tolerate neither dissent nor the truth. And the truth today is that the Soviet "workers' paradise" has become a living hell for those Jews who have lawfully expressed their desire to emigrate to Israel. The recent arrests, and crude vilification of Jews in Russia, speaks louder than the hypocritical statements of official Soviet spokesmen. When Zionism is brazenly compared to nazism, then the Soviet Union is not deluding anyone as to its true motives.

We must continue to confront the leaders of the Soviet Union with the cultural genocide being practiced against Jews in the Soviet Union. The Soviet Government must be made to realize that their shameful acts will continue to be exposed to the world until their discriminatory practices cease. Our own Nation, and all other nations which value human freedom, must insist that the subject of Soviet Jewry be placed high on the agenda of their relations with the Soviet Union.

I call upon my colleagues here in the Senate and upon decent men everywhere to condemn the repressive acts of the Soviet Union against a group of helpless people whose courage in expressing their convictions should be an inspiration to free men everywhere.

SEPARATION OF POWERS: JUDICIAL INDEPENDENCE

Mr. ERVIN. Mr. President, recently I had the privilege of preparing an article for inclusion in an edition of "Law and Contemporary Problems" devoted to judicial ethics.

I highly commend the editors and staff of "Law and Contemporary Problems," which is published by the Duke University School of Law in my home State of North Carolina, and thank them for the opportunity of joining in their edition on judicial ethics. They have performed an outstanding service for those of us who believe that an independent judiciary is a basic requirement for a free society.

This edition, the first issue of volume 35, contains several scholarly articles regarding the concept of judicial independence. Some of these dealt with the principle that our judges must be independent of the other branches of Government as well as from one another.

The independence of our judiciary was one of the greatest principles embodied in the Constitution by the Founding Fathers, and I regret to say that it has been under attack during the past several years. To my mind, nothing should be allowed to abridge the independence of our judges.

With this great principle in mind, I wrote an article, "Separation of Powers: Judicial Independence," in which I attempted to outline the history of an independent judiciary and what it meant to the men who incorporated it into the Constitution.

Mr. President, I ask unanimous consent that my article, "Separation of Powers: Judicial Independence," volume 35, Law and Contemporary Problems," page 108, 1970, be printed in the RECORD.

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

SEPARATION OF POWERS: JUDICIAL
INDEPENDENCE

(By Sam J. Ervin, Jr.)*

I. THE HISTORICAL PERSPECTIVE

When the Founding Fathers gathered in Philadelphia in 1787 to draft the United States Constitution, the concept of separation of powers was a fundamental political maxim which dominated the thinking of many of the members of the Constitutional Convention. A substantial number of the draftsmen arrived predisposed toward creating a government separated into three co-equal branches—the executive, the legislative, and the judicial.

The separation of powers doctrine grew out of centuries of political and philosophical development. Its origins can be traced to the fourth century B.C. when Aristotle, in his treatise entitled *Politics*, described three agencies of government: the general assembly, the public officials, and the judiciary.¹ In republican Rome, there was a somewhat similar system consisting of public assemblies, the senate, and the public officials, all operating on a principle of checks and balances.² Following the fall of the Roman Empire, Europe became fragmented into nation-states, and from the end of the Middle Ages until the eighteenth century the dominant governmental structure consisted of a concentrated power residing in hereditary rulers, the sole exception being the development of the English Parliament in the seventeenth century.³ With the birth of Parliament, the theory of three branches of government reappeared, this time embodied in John Locke's *Two Treatises of Government* (1689), where these three powers were defined as "legislative," "executive," and "federative."⁴ Locke, however, did not consider the three branches to be co-equal, nor were they designed to operate independently.⁵ Locke considered the legislative branch to be supreme, while the executive and federative functions—internal and external affairs, respectively—were left within the control of the monarch, a scheme which obviously corresponded with the dual form of government prevailing in England at the time, the Parliament and the King.⁶

The doctrine was refined and expanded by Baron de Montesquieu, whose *Spirit of the Laws* appeared in 1748 and was well known to many members of the Constitutional Convention. The Frenchman based his theory on his understanding of the English system, which, since the time of Locke, had generated a more independent judiciary and a tendency toward a greater distinction among the three branches. In discussing the importance of clear delineations of power among the three branches, Montesquieu wrote:

"When the legislative and executive powers are united in the same person or body, there can be no liberty, because apprehension might arise lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.

"Again, there is no liberty, if the judiciary power be not separate from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression.

"There would be an end of everything, were the same man or the same body, whether of the nobles or the people, to exercise those three powers, that of enacting the laws, that of executing the public resolutions, and of trying the cases of individuals."⁷

Montesquieu also observed that, in the British system, the judiciary ranked "next to nothing" when compared with the other branches of government.⁸ Some seventeen years later, Blackstone noted the importance of a more powerful and independent judiciary in his *Commentaries*, which were a primary reference for the American colonists:

"Were it [the judicial power] joined with the legislative, the life, liberty and property, of the subject would be in the hands of arbitrary judges, whose decisions would be then regulated only by their own opinions, and not by any fundamental principles of law; which, though legislators may depart from, yet judges are bound to observe. Were it joined with the executive, this union might soon be an overbalance for the legislative."⁹

Just two years before the Constitutional Convention, William Paley, the English philosopher and theologian, observed in his *Moral and Political Philosophy*:

"[T]he judges of the land become not infrequently the arbitrators between the king and the people, on which account they ought to be independent of either; or, what is the same thing, equally dependent upon both; that is, if they be appointed by one, they should be removable only by the other."¹⁰

Thus the doctrine of separation of powers, including an independent judiciary, was reasonably well developed by 1787 when the framers of the Constitution met, and its incorporation into the document they hoped to draft was of paramount consideration to them. It was a doctrine of such broad importance that it had been treated by scores of writers, and discussed by knowledgeable men throughout the colonies. It is doubtful that many members of the Constitutional Convention arrived in Philadelphia completely unaware of its impact. Beyond the theoretical importance of the doctrine, the founding fathers had learned a difficult lesson during their first attempt at government under the Articles of Confederation, which had made "virtually no concession" to principle.¹¹ That attempt at national government, as any student of American history knows, was not an unqualified success. To correct the shortcomings of the Articles, while at the same time providing checks against tyranny, the founding fathers turned to the doctrine of separation of powers, including an independent judiciary.

A. English precedents

Many of the men who attended the Constitutional Convention were lawyers, and virtually all of them were familiar with the centuries-old struggle for judicial independence in England. From what they accomplished, it is clear that one of their overriding purposes in applying the doctrine of separation of powers to the new Constitution was to carry that struggle to fruition.

Before the Norman conquest in England, judicial office was "communal" in character, and the courts could not be considered the exclusive tools of the King. Afterwards, the old communal courts were linked with the central *curia*, which performed multiple functions, and which was staffed by the King's men—his deputies by virtue of his commission. The causes brought before the *curia* were decided under the King's writ, making the King himself the "fountain of justice."¹² Heretofore, the grant of office in medieval England was practically the same as a grant of land: it conferred an estate, so to speak, in the office, according to the terms of the grant. Many of the King's offices became hereditary by this process, and thus less useful to him. Accordingly, the functions of these hereditary offices were taken over by newer positions, such as justiciar and chancellor, which were filled by men of lower birth but who, because they were dependent on the King, could be entrusted with more power. The tenure of these new offices—which comprised much of the central *curia*—was at the pleasure of the King.¹³ Of

course, officials appointed at the King's pleasure could be removed by him for any reason whatsoever. Those appointed during good behavior, which in effect conferred a life estate in the office, could be forced to forfeit their office for misconduct, real or manufactured; the character of the conduct, and whether or not the office would be forfeited, could be determined by the King's Bench under a writ of *scire facias*.¹⁴

The first major challenge to the practice of appointing judges at the King's pleasure came in 1628, when Charles I ordered Sir John Walter to surrender his patent as chief baron of the exchequer because he was dissatisfied with one of Walter's decisions. Walter refused, arguing that his tenure was based on good behavior, not on the King's pleasure, and that he should be removed only if a *scire facias* proceeding determined he had misbehaved. Embarrassed, Charles allowed Walter to keep his patent, his office, and his revenues, although the judge never again appeared in the court of the exchequer. Although Charles had given in somewhat to Walter, within the next decade he dismissed several other judges and set the stage for the Long Parliament of 1640–41 to demand that he appoint a committee to study the tenure of judges. The result was a petition to the King requesting that he substitute tenure during good behavior for tenure during pleasure. Charles complied.¹⁵

Despite the concessions, English kings continued to dismiss judges sporadically during the next sixty years. This was especially true during the reigns of Charles II and James II, when the "transferrals and removals were many" and "passed all precedent and all decency."¹⁶ Finally, in 1701, Parliament passed the Act of Settlement, the principal statute dealing with judicial tenure in modern England and "the one substantially followed ever since."¹⁷ Among other things, it provided that:

"Judges' commissions be made *quamdiu se bene gesserit* and their salaries ascertained and established but upon the Address of both Houses of Parliament it may be lawful to remove them."¹⁸

Tenure during good behavior—an essential requisite for judicial independence—had become part of the British law, although it was timed not to take effect until after the death of the King and Princess Anne "and in default of issue of either." Thus, it was not until 1760 that the tenure of the sitting judges ceased to depend upon the pleasure of the reigning monarch.¹⁹ Even then, "their tenure was far more secure than it had been under the Stuarts, but they enjoyed at best a limited independence."²⁰ Judges continued to be active politically well into the late eighteenth century,²¹ and they still could be removed upon address by both houses for any reason whatsoever.²²

Nonetheless, the Act of Settlement established the basis for the modern English judicial system, and it has been observed that:

"The net result of it all is that . . . an English Judge holding by patent *quamdiu se bene gesserit*, like any other official so holding, may lose his office by judicial process under a writ of *scire facias*, if it appear that the conditions of the patent have not been fulfilled. Second, he may be impeached and removed from office by sentence of the house of lords, though this has not occurred for over a century. Third, the crown may remove him without any cause shown, after a joint address of the houses of parliament requesting it, but not otherwise."²³

B. Colonial developments

While the struggle for judicial independence was proceeding at a slow but steady pace in England, there was no comparable progress in the American colonies. For the most part, early colonial judges served at the pleasure of the royal governors, and except for Pennsylvania, no colonial assembly had

Footnotes at end of article.

the power to impeach a judge.²⁴ However, the tendency during the later colonial period was to place some restrictions on the removal power of the governors, and longer tenure based on good behavior was established in several colonies.²⁵ Then, in 1761, acting on advice of the Board of Trade, the King made tenure at royal pleasure, ostensibly "on ground that the state of learning in the colonies was so low that it was with difficulty that men could be found competent to administer the judicial offices."²⁶ Later, in 1772, George III established a fixed salary for the judges of the superior court of Massachusetts, thus preventing them from receiving their usual grants from the House of Representatives and the council and governor. This action aroused so much opposition that it has been credited with causing the complaint in the Declaration of Independence that George III "has made judges dependent upon his will alone for the payment of their salaries."²⁷

Thus, due to the King's growing distrust of the colonies, judicial independence in America had taken a turn for the worse at the time of the Revolution, although it had been a goal of the colonists for some time, and despite their limited successes in promoting it:

"One of the long-continued struggles of the assemblies was for judicial tenure during good behavior, a tenure much more conducive to judicial independence than that during the pleasure of the executive. Despite the opposition of the Crown, extending even to the removal of one governor who failed to veto such an act, the assemblies managed to establish the longer tenure in several colonies."²⁸

After 1776, the states developed constitutions containing various prohibitions of executive control over the judiciary, and these documents provided some powerful precedents for the founding fathers when they met eleven years later. Some states, such as Connecticut, retained basically the same form of government as had existed prior to independence. There was no uniform standard to be followed by those states which drafted new constitutions, and naturally the new governing documents revealed no accepted method of selecting judges or granting them tenure.²⁹ For example, New York granted tenure to its supreme court judges during good behavior, while New Jersey gave them seven-year terms.³⁰ In most states, as in the abortive Articles of Confederation, the legislature was the dominant power in government under the early state constitutions, playing a leading role in the choice and removal of judges in all but a few states where it was limited to impeachment of judges for misconduct.³¹ James Madison observed at the Philadelphia convention that:

"[E]xperience in all states has evinced a powerful tendency in the legislature to absorb all power into its vortex. This was the real source of danger to the American [state] Constitutions; and suggested the necessity of giving every defensive authority to the other departments that was consistent with republican principles."³²

The Bill of Rights of the Massachusetts Constitution of 1780 took a position substantially like Madison's when it stated unequivocally that:

"It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people, and of every citizen, that judges hold their office as long as they

behave themselves well; and that they should have honourable salaries ascertained and established by standing laws."³³

That same Massachusetts Constitution also provided a more specific clause delineating its separation of powers doctrine:

"In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them; to the end that it may be a government of laws, and not of men."³⁴

Despite Massachusetts' provision for separation of powers and a more independent judiciary, Madison said later in *The Federalist*, No. 47, that:

"If we look into the constitutions of the several States we find that, notwithstanding the emphatical and, in some instances, the unqualified terms in which this axiom has been laid down, there is not a single instance in which the several departments of power have been kept absolutely separate and distinct."

Thus it is clear that the founders arrived at Philadelphia familiar with English and American precedents of separated powers and judicial independence. From English history and from their knowledge of the political philosophers, they had gained familiarity with and respect for the principle of judicial independence. From their own colonial experience and from their state constitutions, they had learned the importance of incorporating the doctrine in the governing documents in order to assure the fair administration of justice.

C. The Constitutional Convention

John Randolph of Virginia offered the initial proposal relating to the judicial branch at the Constitutional Convention; Randolph came from a state where the legislature had been dominant. His proposal provided for judges to be chosen by the national legislature, and to "hold their offices during good behavior."³⁵ Charles Pinckney of South Carolina submitted an alternative proposal on the same day which also provided for judicial tenure during good behavior.³⁶ Hamilton, whose primary concern was the establishment of a strong executive, later suggested the inclusion of a judiciary article providing for a supreme court with justices serving during good behavior and removable only by conviction on impeachment for some crime or misdemeanor.³⁷

When the judiciary article reached the floor of the Convention for debate, an attempt was made by John Dickinson of Delaware to install address as a means of removing judges. After the words "good behavior" would have been inserted the words "provided that they may be removed by the Executive on the application [by] the Senate and House of Representatives." Gouverneur Morris thought the provision would be a "contradiction in terms," since it would subject judges who would be serving during good behavior to removal without a trial. Another objection was made by Randolph, who "opposed the motion as weakening too much the independence of the Judges." The proposal was defeated seven to one, with three states absent, and removal by address was specifically rejected by the founding fathers.³⁸

The tenure of federal judges was thus established as during good behavior subject only to impeachment by the House of Representatives and conviction by the Senate sitting as a jury, and was embodied in section I of article III as finally adopted by the framers:

"The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior

Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their services, a Compensation, which shall not be diminished during their Continuance in Office."

The framers did not include a specific clause in the Constitution separating the powers of government among the three branches. However, they did classify the powers and assign them to their respective departments. In addition to article III, which assigned the judiciary power, article I, section I provided that "All legislative Powers herein granted shall be vested in a Congress of the United States . . ." and article II, section I specified that "The executive Power shall be vested in a President of the United States of America."

An early criticism of the Constitution was that it did not specifically separate the powers in accord with Montesquieu's maxim but rather that it actually meshed some of the powers.³⁹ The overlapping—popularly described as the system of checks and balances—takes several forms: for instance, the power of appointment is given to the executive, but with the advice and consent of the Senate, and impeachment, which in essence is a judicial function, was given to the Congress.⁴⁰ However confusing such a system may seem, it has served a valuable purpose, and was ably defended by Madison in *The Federalist*, No. 47:

"The magistrate in whom the whole executive power resides cannot of himself make a law, though he can put a negative on every law; nor administer justice in person, though he has the appointment of those who do administer it. The judges can exercise no executive prerogative, though they are shoots from the executive stock; nor any legislative function, though they may be advised by the legislative councils. The entire legislature can perform no judiciary act, though by the joint act of two of its branches the judges may be removed from their offices, and though one of its branches is possessed of the judicial power of the last resort. The entire legislature, again, can exercise no executive prerogative, though one of its branches constitutes the supreme executive magistracy, and another, on the impeachment of the third, can try and condemn all the subordinate officers in the executive department."

"The accumulation of all powers, legislative, executive and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny."

Another complaint lodged against the new Constitution while it was before the states for ratification was the absence of a specific method of removing judges. The opponents of ratification recognized that the Constitution made provision by its impeachment process for the removal of judges from their judicial offices for "Treason, Bribery, or other high Crimes and Misdemeanors" (article II, section 4). They complained of the Constitution, however, because it made no provision for removal of judges for mental infirmities arising out of age or other causes. The founding fathers omitted a provision for removal on such grounds because, as Hamilton stated in *The Federalist*, No. 79, it "would much oftener give scope to personal and party attachments and enmities than advance the interests of justice or the public good." Said Hamilton:

"The want of a provision for removing the judges on account of inability has been a subject of complaint. But all considerate men will be sensible that such a provision would either not be practiced upon or would be more liable to abuse than calculated to answer any good purpose. The mensuration of the faculties of the mind, has, I believe, no place in the catalogue of known arts. An attempt to fix the boundary between the regions of ability and

inability would much oftener give scope to personal and party attachments and enmities than advance the interests of justice or the public good. The result, except in the case of insanity, must for the most part be arbitrary; and insanity, without any formal or express provision, may be safely pronounced to be a virtual disqualification."

Hamilton went on in *The Federalist*, No. 79, to declare that investigations into the abilities of a judge "must forever be vague and dangerous." The early New York state constitution, he said, avoided such investigations by providing that all judges retire at sixty years of age. Hamilton added:

"I believe there are few at present who do not disapprove of this provision. There is no station in relation to which it is less proper than to that of a judge. The deliberating and comparing faculties generally preserve their strength much beyond that period in men who survive it; and when, in addition to this circumstance, we consider how few there are who outlive the season of intellectual vigor and how improbable it is that any considerable portion of the bench, whether more or less numerous, should be in such a situation at the same time, we shall be ready to conclude that limitations of this sort have little to recommend them in a republic where fortunes are not affluent and pensions not expedient, the dismissal of men from stations in which they have served their country long and usefully, on which they depend for subsistence, and from which it will be too late to resort to any other occupation for livelihood, ought to have some better apology to humanity than is to be found in the imaginary danger of a superannuated bench."

Earlier, in *The Federalist*, No. 78, Hamilton defended the appointment of judges for tenure during good behavior, which he considered "the citadel of the public justice and the public security." He continued:

"According to the plan of the convention, all judges who may be appointed by the United States are to hold their offices during good behavior; which is most conformable to the most approved of State constitutions. . . . The standards of good behavior for the continuance in office of the judicial magistracy is certainly one of the most valuable of the modern improvements in the practice of government. In a monarchy it is an excellent barrier to the despotism of the prince; in a republic it is no less excellent barrier to the encroachments and oppressions of the representative body. And it is the best expedient which can be devised in any government to secure a steady, upright, and impartial administration of the laws."

In *The Federalist*, No. 51, Madison commented on the importance of the judiciary's independence from the appointing authority:

"In order to lay a due foundation for that separate and distinct exercise of the different powers of government, which to a certain extent is admitted on all hands to be essential to the preservation of liberty, it is evident that each department should have a will of its own; and consequently should be so constituted that the members of each should have as little agency as possible in the appointment of the members of the others. . . . In the constitution of the judiciary department in particular, it might be inexpedient to insist rigorously on the principle: first, because peculiar qualifications being essential in the members, the primary consideration ought to be to select that mode of choice which best secures these qualifications; secondly, because the permanent tenure by which the appointments are held in that department must soon destroy all sense of dependence on the authority conferring them. It is equally evident that members of each department should be as little dependent as possible on those of the others for the emoluments annexed to their

offices. Were the executive magistrate, or the judges, not independent of the legislature in the particular, their independence in every other would be merely nominal."

The well-known rule of construction that the expression of one thing is the exclusion of another compels the conclusion that the founding fathers intended that no federal judge should be removed from office except through the impeachment process. Hamilton justified the purpose of the framers on this score when he said in *The Federalist*, No. 79:

"The precautions for [judges'] responsibility are comprised in the article respecting impeachments. . . . This is the only provision on the point which is consistent with the necessary independence of the judicial character, and is the only one which we find in our own Constitution in respect to our own judges."

D. The Congress of 1789

The first Congress meeting under the new Constitution promptly passed the Judiciary Act of 1789, which established the Supreme Court and a federal district court in each state.⁴¹ It also passed a law making it a crime for a judicial officer to accept a bribe, and, on conviction, disqualifying him from holding any office of honor, trust, or profit with the United States government.⁴² The first of these acts set the tone of the federal judiciary and created a general structure which has been retained, with expansion and revision, to the present. Although the latter has been interpreted in some quarters as an early attempt to place some limit on the activities of federal judges outside the impeachment process, the statute has never been enforced.⁴³

During debate on the Judiciary Act of 1789, Congressman Smith of South Carolina counseled his colleagues that it would not be easy to alter the federal system once it was established:

"The judges are to hold their commissions during good behavior, and after they are appointed they are removable only by impeachment; in consequence the system must be a permanent one."⁴⁴

E. The Jeffersonian Democrats

The federal judiciary established by the Act of 1789 remained essentially intact until the Federalists lost the election of 1800. Before they lost control of the administration and Congress early the next year, the Federalists established a number of new judgeships by passing the Judiciary Act of 1801,⁴⁵ and President John Adams appointed members of his party to the positions during the last hours of his administration.⁴⁶ When the Jeffersonian Democrats took office shortly thereafter, they proceeded to repeal the Act of 1801, thereby setting off a monumental debate on the powers of Congress to "undo what it had done" to the federal judiciary.⁴⁷

Three years later, the Democrats took another swipe at the courts, this time with an attempt to impeach and convict the Federalist Associate Justice of the Supreme Court, Samuel Chase. He was charged with misconduct while holding a trial for sedition. The accusations obviously were politically motivated. Although Chase was impeached by the House and the effort received a majority vote in the Senate, it failed for lack of the necessary two-thirds vote. However, the Jeffersonian Democrats managed in that same year to bring about the first successful impeachment, conviction, and removal of a federal judge—John Pickering of New Hampshire, who was charged with violations of statute, conducting court while intoxicated, and blasphemy on the bench.⁴⁸

F. The court-packing debate

Attempts to remove judges by means other than impeachment gained renewed impetus in the 1930s when President Franklin D. Roosevelt attempted to "pack" the Supreme Court, and legislation was sponsored by Representative Hatton Sumners of Texas, chair-

man of the House Judiciary Committee, which would have created a panel to rule on the fitness of federal judges.⁴⁹ The efforts sparked a great debate over the constitutionality of alternative methods of removal. The basic argument on behalf of constitutionality was propounded by Professor Burke Shartel, whose treatise⁵⁰ was written a few years before the debate and is still relied upon extensively by those who believe there can be some method of removal other than impeachment under the Constitution. Taking the opposing view was a federal district judge and legal scholar, the late Merrill E. Otis.⁵¹ The debate centered around the legislative proposal to create a tribunal to rule on the fitness of federal judges alluded to above.

Shartel took the position that impeachment was designed to restrict the power of the Congress over judges, not that of the judicial branch over its own members.⁵² He argued that the removal of a judge involves a justiciable dispute and as such can be handled by the judicial branch. Admitting that the separation of powers doctrine precludes executive removal, Shartel asserted that legislative removal is possible only through impeachment, bills of attainder having been rejected at the Constitutional Convention. He said:

"The separation of powers doctrine stands in the way of legislative removal of executive and judicial officers, except as such removal is expressly authorized in one form—impeachment."⁵³

Shartel believed that methods of judicial removal—*scire facias* and quo warranto—were still operative, enabling the judicial branch (presumably the Supreme Court or some other body of judges) to remove members of the inferior courts.

Judge Otis answered Shartel with a question of his own:

"The Constitution does separate our government into three independent branches. But does not the independence of the judicial branch attach as much to the judges of the inferior courts as it does to the justices of the highest court?"⁵⁴

He convincingly pointed out the absence in the Convention debates of any other method of removal; the fact that the Constitution makes no distinctions between judges, whether they be supreme or inferior—they are all to hold office "during good behavior"; and that the Constitution fixes the term of a judge as life, leaving the Congress no more power to alter that term than it has to alter the term of the President or Vice President.

Otis also carefully analyzed the word "sole" used in describing the powers of impeachment:

"It is well known, and often has it been said by the highest courts, that every word of the Constitution was intended to have significance. If that is true of any word, it is especially true of the strong word—'sole.'"

"The Framers certainly would not have been so meticulous in the use of words, so careful to use this particular strong word in the vesting of the impeachment power, unless they had in mind either, (a), that in the past in English law the power to charge misconduct against an officer for the purpose of securing his removal from office had been exercised by some body or official other than the House of Commons, or, (b), that in after years some one might conceive that the power might be exercised by some other body or official than the House of Representatives. The word "sole" was used to make it clear to all forever that, in the American system, no significance should be given to any English precedent, if there were any, whereby the power to charge misconduct for the purpose of obtaining removal of a civil officer from office, was held to be lodged in any other than that legislative body directly representing the whole people."⁵⁵

Shartel based his argument on the continued existence of a proceeding like *scire facias*, and if Judge Otis did not demolish it, another scholar did when she said:

"The clearest rejection of Shartel's argument lies in the fact that no colonial or state constitution provided for such a use of *scire facias*, nor was a proposal made to include it during the Constitutional Convention. Even in the unreformed common law, there was a distinction between precedents and fossils."²⁸

The arguments put forward during the 1930s, of course, came and went with the unsuccessful attempts to pack the court and to establish the judicial oversight tribunal. And so, for the most part, did attempts to erode the independence of our federal judges, at least for thirty years.

II. COMMENTARY

I have attempted from the foregoing sketchy treatment of the historical basis of judicial independence to show that the concept was a *sine qua non* to the men who drafted the United States Constitution. Because of the limitations of space and time, it was not possible for me to delve into the detail that would be appropriate and that would even more strongly support my thesis that judicial independence is the strongest safeguard against the exercise of tyrannical power by men who want to live above the law, rather than under it. The separation of powers concept as understood by the founding fathers assumed the existence of a judicial system free from outside influence of whatever kind and from whatever source, and further assumed that each individual judge would be free from coercion even from his own brethren.

The founding fathers, in establishing our national government, reflected clearly the lessons they had absorbed concerning the history of man's struggle to be free from tyranny. They knew that those entrusted with governmental powers are susceptible to the disease of tyrants—to what George Washington described in his Farewell Address as the "love of power and proneness to abuse it."²⁹ They realize that the powers of public officers should be defined by laws which they, as well as the people, are obliged to obey, and that liberty demands control by constant and uniformly enforced laws rather than by the arbitrary and inconstant whims of willful men.

They recognized the inalterable truth expressed by Thomas Hobbes, when he said that freedom is "political power divided into small fragments,"³⁰ and for that reason they diffused national power among three branches of government, each charged with specific responsibilities and each likewise precluded from exercising those powers bestowed upon the other two branches. Because they had suffered the burdens of tyranny, the founding fathers very carefully provided for a federal judiciary that would operate completely independent of everything except the Constitution.

To my mind, an independent judiciary is perhaps the most essential characteristic of a free society. From long experience as a practicing attorney, a trial judge, an appellate judge, and now a legislator, I have had ample opportunity to observe and appreciate the safeguards embodied in the separation of powers doctrine so wisely formulated by our forefathers.

Unfortunately, the events of recent years have created an aura of crisis in many sectors of our society, and in their haste to set right situations deemed disastrous, leaders in all three branches of the government have proposed solutions ultimately inimical to the constitutional safeguards so carefully formulated by the founding fathers. The principle of judicial independence has been

gravely endangered as a result of this "crisis" approach to solving our problems. Beyond doubt during this era of social upheaval, there is a rather extraordinary lack of confidence in many of our governmental institutions, including the judiciary. Hence, it is not surprising that some deeply concerned persons would emulate the example of Sampson, who, in his blind zeal, destroyed the pillars on which the temple rested. There are now pending before the Congress well over two dozen measures designed to place new restrictions on federal judges. In many instances these measures represent a direct assault upon the principle of judicial independence. Some of them are directed toward limiting the non-judicial activities of federal judges, while others are designed to provide means of disciplining the federal judiciary.

Because of the controversy over the proper role of the judiciary, the Senate Judiciary Subcommittee on Separation of Powers,³¹ of which I am chairman, conducted two series of hearings into the principle of judicial independence. The first series of hearings undertook to investigate the many pertinent questions about the non-judicial activities of judges which were raised in the wake of the Fortas resignation. Thus, on July 14, 15, and 16, and September 30, 1969, the Subcommittee heard testimony from an impressive list of expert witnesses ranging from former Supreme Court Justices Tom C. Clark, Arthur J. Goldberg, and Stanley Reed, to former Secretary of State Dean Acheson. The hearings emphasized the general ramifications of proposed limitations on the extrajudicial activities of federal judges rather than focusing on any single piece of proposed legislation. The hearings failed to produce any consensus on precisely what constitutes an improper outside activity for federal judges, although there was general agreement that the Congress should be very reluctant to pass all-encompassing legislation which might result in undue restrictions.³²

Because of the continuing clamor both in the press and in the Congress, the Subcommittee this spring devoted four days of hearings to the independence of federal judges. These hearings, conducted on April 7 and 9, and May 7 and 8, 1970, were concerned with the roles of the Judicial Conference of the United States and the judicial councils of the various circuits as they relate to the independence of federal judges, and with certain legislative proposals introduced to expand the powers of judges to oversee the judicial activities of their brethren.³³

During this second set of hearings, the Subcommittee paid particular attention to Senate Bill 1506, introduced in the First Session of the Ninety-first Congress by Senator Joseph Tydings "to provide for improvements in the administration of courts of the United States. . . ." It is cited as the Judicial Reform Act.³⁴

Title I of the Tydings bill would create a Commission on Judicial Disabilities and Tenure, consisting of judges appointed by the Chief Justice, and empowered to investigate charges of misconduct and to recommend to the Judicial Conference the removal of a federal judge. In turn, the Conference would have the power to remove the judge, subject to appeal to the Supreme Court by certiorari. Complaints could be brought by "any person" against any federal judge, and the grounds for removal could range from disability to conflict of interest. In effect, title I would provide a means for removing federal judges from office without compliance with the constitutional mandate that nothing except impeachment and conviction can be used for that purpose. Obviously, possible objections to title I are manifold. Not only does it raise serious constitutional questions, but its language presents intense problems of interpretations.

My colleague, Senator Tydings, of course, is concerned with improving the machinery for the administration of justice. I share that concern, as all of us must in this period when there are unprecedented backlogs in our courts, when justice in one district may be swifter than in another, and when public respect for our judicial system is at such a low ebb that any misstep by an individual judge may be attributed in the public mind to the entire federal judiciary. However, commissions such as the one embodied in the Tydings bill will not solve these problems, for they would be empowered to deal with the results, not the causes of our problems.³⁵

Virtually all of the witnesses in the last hearings, most of whom were federal judges, conveyed to the Subcommittee in the strongest possible terms that their legal research and long experience convinced them that measures such as Senate Bill 1506 are not only patently unconstitutional, but could serve as tools for disgruntled litigants to disrupt the orderly process of the administration of justice.

Following the hearings, the Subcommittee sent a letter to every federal district judge in the United States soliciting his views on the Tydings bill. We felt this information would be particularly telling since the district judges would be most involved with and affected by the measure. Of more than a hundred responses received to date, only one indicated support for this bill.³⁶ Most of the judges responding were very specific in their objections, emphasizing the questionable constitutionality of the measure, the unreasonable burden it would place on federal judges, and the serious, if not fatal, damage it would do to the principle of an independent judiciary.

One judge reflected the feelings of his colleagues:

"Complete independence is a basic *sine qua non* for effective judges. The question of whether this independence can ever be restricted at all without doing more harm than good becomes more difficult philosophically with more careful study and analysis. . . . It seems to me that if the problem is put into proper perspective, and the sins of the very few judges who are lazy, or who fail to recognize their own weakness, are viewed, not in isolation, but in proportion to those judges who do not abuse their independence, but utilize it to give the fairest and promptest justice that they can, there appears no real reason to resort to expedients of doubtful constitutionality, and fraught with the likelihood of being in themselves more dangerous than the evils against which they are directed."

A second judge predicted another danger, harassment by disgruntled litigants:

"The threats to judicial independence found in the provisions of the bill are real. Congress and not other judges should determine whether or not a judge should be removed from office. Also, the harassment that would be put into play against a judge by disgruntled litigants would be both burdensome and insulting to such judge. A disgruntled litigant has his right of appeal from a judgment adverse to him, and in these days such appeal is being made more and more easy to accomplish."

As a third judge pointed out:

"The Founding Fathers manifestly intended to make it very difficult to remove federal judges. This fact has been fundamental in permitting judges the independence to accord justice without favoritism and patronism. This beneficent aspect of the federal judiciary will be overthrown if Title I, S. 1506 were to become law."

While a good portion of the Subcommittee's second round of hearings was devoted to the Judicial Conference of the United States³⁷ and the judicial councils of the circuits,³⁸ the limitations of time and space preclude any detailed discussion in this

Footnotes at end of article.

paper of the capacity of these two bodies to infringe upon independence. Suffice it to say that my reading of the legislative history establishing the two bodies clearly convinces me that Congress intended them merely to be housekeeping bodies with no power whatsoever to discipline any federal judge for the omission or commission of any act. The Founding Fathers assigned that task to Congress. Judicial independence can just as easily be eroded by powerful hierarchies within the judiciary itself as by outside pressures from the legislative and executive branches of the government. Certain activities of the councils make it clear that their powers and functions should be more clearly defined. The issue was raised but was left unanswered in the two cases of *Chandler v. Judicial Council of the Tenth Circuit*.¹⁷ In the Chandler episode, the Judicial Council of the Tenth Circuit decided that it would discipline Judge Chandler by ordering him to take no action on cases pending before him, and by refusing to assign him any other cases. Judge Chandler, believing that this was tantamount to an unconstitutional impeachment and conviction by the Tenth Circuit, twice sought to have the Supreme Court pass on the issue. However, the Supreme Court in both instances refused the opportunity to establish legal precedent for the constitutional principle that only Congress can remove a federal judge. I agree with Mr. Justice Black, who in the first *Chandler* case declared:

"This is clearly and simply a proceeding by circuit judges to inquire into the fitness of a district judge to hold his office and to remove him if they so desire. I do not believe Congress could, even if it wished, vest any such power in the circuit judges.

"One of the great advances made in the structure of government by our Constitution was its provision for an independent judiciary—for judges who could do their duty as they saw it without having to account to superior court judges or to anyone else except the Senate sitting as a court of impeachment."¹⁸

In the second *Chandler* case, the Court again refused to face the issue; instead it held that Judge Chandler had failed to make a "case for the extraordinary relief of mandamus or prohibition."¹⁹

Mr. Justice Black in the second *Chandler* case aptly expressed my opinion of the constitutionality of the actions taken by the Judicial Council of the Tenth Circuit when he said:

"What is involved here is simply a blatant effort on the part of the Council through concerted action to make Judge Chandler a 'second-class judge,' depriving him of the full power of his office and the right to share equally with all other federal judges in the privileges and responsibilities of the Federal judiciary. I am unable to find in our Constitution or in any statute any authority whatever for judges to arrogate to themselves and to exercise such powers. Judge Chandler, like every other federal judge including the Justices of this Court, is subject to removal from office only by the constitutionally prescribed mode of impeachment."²⁰

Under no circumstances would I wish to suggest that there are no abuses within the federal judiciary, or that there is no room for improvement either in the quality of the judges appointed to the federal bench or of the system under which they operate. However, I do believe that such legislative proposals as that embodied in the Tydings bill and such heavy-handed operations of the judicial hierarchy as is reflected in the Chandler incident represent wrong approaches to problems which may or may not exist. We all know that no perfect judicial system can be devised by the mind of man, and it would be sheer folly to cast away the constitutional protection we now have in a

vain attempt to create such a perfect system. My reading of the Constitution and of the history surrounding its drafting convinces me that there is not a word or clause anywhere in that great document that would give any one of the three branches of government the power to remove federal judges except through the admittedly cumbersome process of impeachment, and there are ways through which the Congress could streamline that process without running afoul of the constitutional mandate.²¹

While there may be steps available to modernize and make more efficient the impeachment process, we must heed the warning of Professor Philip B. Kurland, one of the country's noted constitutional authorities and the Chief Consultant to the Subcommittee on Separation of Powers, who said, "it should be kept in mind that tools created by the well-intentioned for beneficent uses may fall into less worthy hands to be used for less appropriate ends."²²

The founding fathers knew that the form of government they established would not create a judiciary composed of judicial angels who could do no wrong. They knew that the activities of a few judges might handicap the operation of the system, but at the same time they realized that individual liberty is best protected by an independent judiciary composed of judges who are subject to the Constitution alone. They had learned the lesson of history, and attempted to build safeguards into our system which would prevent its repetition. We must not reject their wisdom—and destroy our own freedoms—by regarding the Constitution they drafted as a piece of ancient parchment which can be folded and rearranged to suit the whims of individual men.

FOOTNOTES

* United States Senator from North Carolina.

¹ ARISTOTLE, *POLITICS*, book IV, ch. 14. See generally Robinson, *The Division of Governmental Power in Ancient Greece*, 18 *POL. SCI. Q.* 614 (1903).

² J. BRYCE, *MODERN DEMOCRACIES* 391 (1921).

³ See generally Fairlie, *The Separation of Powers*, 21 *MICH. L. REV.* 393 (1922).

⁴ J. LOCKE, *TREATISE OF CIVIL GOVERNMENT AND LETTER CONCERNING TOLERATION* 97-99 (Sherman ed. 1937).

⁵ *Id.*

⁶ Fairlie, *supra* note 3, at 396.

⁷ I. B. DE MONTESQUIEU, *SPIRIT OF THE LAWS* 152 (Nugent ed. 1823).

⁸ *Id.* at 156.

⁹ W. BLACKSTONE, *COMMENTARIES ON THE LAWS OF ENGLAND* 259-60 (1765). An unexplained and undocumented note found inside one of the 1765 editions in the Library of Congress proclaimed, "By the year 1776 nearly 2,500 copies of Blackstone's *Commentaries* were in use in the Colonies, of which 1,500 were of the first American edition exhibited above. This circumstance led Burke, in moving his resolution for conciliation with the Colonies, to declare: 'I hear that they have sold nearly as many of Blackstone's *Commentaries* in America as in England.'" ¹⁰ W. PALEY, *MORAL AND POLITICAL PHILOSOPHY* 345 (1824).

¹¹ Wright, *The Origins of the Separation of Powers in America*, 13 *ECONOMIA* 169, 179 (1933).

¹² McIlwain, *The Tenure of English Judges*, 7 *AM. POL. SCI. REV.* 217, 218 (1913). While not documented, this paper, prepared for oral presentation before a meeting of the American Political Science Association, is highly readable and accurate in detail.

¹³ *Id.* at 219.

¹⁴ ROSS, 'Good Behavior' of Federal Judges, 12 *U. KAN. CITY L. REV.* 119, 120 (1944).

¹⁵ VI E. FOSS, *THE JUDGES OF ENGLAND* 372 (1857). In his brief biography, Foss recounts that after assuming the duties of chief baron,

Walter "did not answer to the king's expectations. He was too independent and too honest to suit the royal will." *Id.* at 371-72.

¹⁶ T. PLUCKNETT, *A CONCISE HISTORY OF THE COMMON LAW* 60-61 (5th ed. 1956). See also McIlwain, *supra* note 12, at 223.

¹⁷ McIlwain, *supra* note 12, at 224.

¹⁸ 12 & 13 William III, c. 2, § 3 (1700). See also *THE EIGHTEENTH CENTURY CONSTITUTION, 1688-1815*, at 59 (E. Williams ed. 1960).

¹⁹ 1 GEORGE III, c. 23 (1760).

²⁰ Ziskind, *Judicial Tenure in the American Constitution: English and American Precedents*, 1969 *SUP. CT. REV.* 135, 137.

²¹ PLUCKNETT, *supra* note 16, at 248. Plucknett recites the activities of William Murray, Earl of Mansfield, who as Lord Chief Justice of the King's Bench remained in the House of Lords and, among other things, argued against repeal of the Stamp Act.

²² W. CARPENTER, *JUDICIAL TENURE IN THE UNITED STATES* 125 (1918).

²³ McIlwain, *supra* note 12, at 225.

²⁴ Ziskind, *supra* note 20, at 138.

²⁵ Wright, *supra* note 11, at 176.

²⁶ CARPENTER, *supra* note 22, at 2-3.

²⁷ *Id.* at 2.

²⁸ Wright, *supra* note 11, at 177.

²⁹ Ziskind, *supra* note 20, at 139. This source gives a rather detailed survey of the judicial systems initially used by each of the new states.

³⁰ *Id.* at 140.

³¹ *Id.* at 138-39.

³² Quoted in F. GREEN, *CONSTITUTIONAL DEVELOPMENT IN THE SOUTH ATLANTIC STATES, 1776-1860*, at 103 (1930).

³³ *THE FEDERAL AND STATE CONSTITUTIONAL COLONIAL CHARTERS AND OTHER ORGANIC LAWS OF THE UNITED STATES*, art. 29, at 960 (B. Poore ed. 1878).

³⁴ *Id.*, art. 30, at 960.

³⁵ I. M. FARRAND, *THE RECORDS OF THE FEDERAL CONVENTION OF 1787*, at 21 (1934).

³⁶ III *id.* at 600.

³⁷ *Id.* at 628.

³⁸ II *id.* at 428-29.

³⁹ Fairlie, *supra* note 3, at 398. Madison, in *The Federalist*, No. 47, states that "One of the principal objections inculcated by the more respectable adversaries to the Constitution is its supposed violation of the political maxim that the legislative, executive, and judiciary departments ought to be separate and distinct."

⁴⁰ See *id.* at 402-03.

⁴¹ Judiciary Act of 1789, I Stat. 73.

⁴² Act of April 30, 1790, ch. 19, § 21, I Stat. 117.

⁴³ Testimony of Peter G. Fish at *Hearings on The Independence of Federal Judges Before the Subcomm. on Separation of Powers of the Senate Comm. on the Judiciary*, 91st Cong., 2d Sess. (1970). (Unpublished). These hearings are discussed *infra*.

⁴⁴ 1 *ANNALS OF CONG.* 860 (1789).

⁴⁵ Act of Feb. 13, 1801, ch. 4, 2 Stat. 89.

⁴⁶ CARPENTER, *supra* note 22, at 55.

⁴⁷ Kurland, *The Constitution and the Tenure of Federal Judges: Some Notes from History*, 36 *U. CHI. L. REV.* 665, 671 (1969). Professor Kurland's article is an excellent review of the debate and of other attempts to install legislative limits on the tenure and independence of federal judges.

⁴⁸ For a concise résumé of impeachments, see *The Kelly Memorandum*, *CONG. REC.*, vol. 116, pt. 21, p. 23092. Including Chase and Pickering, there have been a total of nine impeachments, based on various charges. In 1830, James H. Peck of Missouri was impeached, but not convicted, for punishing for contempt a lawyer who was critical of one of his opinions; in 1862, West H. Humphries was impeached and convicted for aiding in the secession of Tennessee and serving as a Confederate judge; in 1904, Charles Swayne of Florida was acquitted on charges involving false expense account

claims, misuse of a receivership for personal gain and living outside his district; in 1912, Robert W. Archbald was convicted and removed from the Commerce Court on charges of using his position to secure business favors; in 1926, George W. English of Illinois resigned in the face of accusations that he had abused his power by suspending and disbaring two attorneys, and that he had used his office for personal gain; in 1933, Harold Louderback of California was acquitted of charges that he used his office to enrich his friends; and, in 1936, Halsted L. Ritter was convicted and removed on a charge that he had received kickbacks from legal fees awarded his former law partner.

⁴⁹ S. 4527 and H.R. Res. 2271, 75th Cong., 1st Sess. (1936). Both bills are reprinted in full in Otis, *A Proposed Tribunal: Is It Constitutional?*, 7 U. KAN. CITY L. REV. 3, 10-12 (1938).

⁵⁰ Shartel, *Federal Judges—Appointment, Supervision, and Removal—Some Possibilities Under the Constitution*, 28 MICH. L. REV. 870 (1930).

⁵¹ Otis, *supra* note 49.

⁵² Shartel, *supra* note 50, at 894.

⁵³ *Id.* at 881.

⁵⁴ Otis, *supra* note 49, at 17.

⁵⁵ *Id.* at 25-26.

⁵⁶ Ziskind, *supra* note 20, at 138.

⁵⁷ I MESSAGES AND PAPERS OF THE PRESIDENTS 211 (J. Richardson ed, 1897).

⁵⁸ H. MAINE, *POPULAR GOVERNMENT* 70 (1885).

⁵⁹ The Subcommittee on Separation of Powers originated under S. Res. 305, sponsored by Senators Dirksen and Mansfield in the 89th Congress, 2d Session. It is authorized to "make a full and complete study of the separation of powers between the executive, judicial and legislative branches of Government provided by the Constitution, the manner in which such power has been exercised by each branch and the extent if any to which any branch or branches of the Government may have encroached upon the powers, functions, and duties vested in any other branch by the Constitution of the United States." Present membership consists of Sam J. Ervin, Jr., North Carolina, Chairman; John L. McClellan, Arkansas; Quentin N. Burdick, North Dakota; Charles McC. Mathias, Jr., Maryland; and Robert P. Griffin, Michigan.

⁶⁰ *Hearings on nonjudicial Activities of Supreme Court Justices and Other Federal Judges Before the Subcomm. on Separation of Powers of the Senate Comm. on the Judiciary*, 91st Cong., 1st Sess. (1969). (Unpublished.) These hearings are soon to be published by the Subcommittee, and should prove of great value to scholars who wish to study contemporary viewpoints on judicial independence.

The Subcommittee, at this writing, is in the process of drafting a proposed set of suggestions regarding what constitutes acceptable outside activities of federal judges. I should like to emphasize that these would only be suggestions for possible use by the federal judiciary; they will not under any circumstances be considered legislative proposals.

⁶¹ *Hearings, supra* note 43. These hearings also are being prepared by the Subcommittee for publication and will be available soon.

⁶² CONG. REC., vol. 115, pt. 5, pps. 6217-6230, S. 1506 and accompanying bills, S. 1507 through S. 1516, 91st Cong., 1st Sess. (1969), are printed at this point in the *Congressional Record*. The pertinent provisions of S. 1506 have been described by the Legislative Reference Service as follows:

Judicial Reform Act—Title I: Commission on Judicial Disabilities and Tenure—Establishes within the judicial branch of the Gov-

ernment a Commission on Judicial Disabilities and Tenure composed of five members. Requires each member be a judge of the United States who is in regular active service. Requires the Commission, at all times, to include at least two district judges, and two circuit judges. Provides that all members be assigned to the Commission by the Chief Justice of the Supreme Court [sic]. Makes the term of the Commission four years.

Provides that the Commission shall promote the honorable and efficient administration of justice in the courts of the United States. Permits it to act to retire or remove a judge only after an investigation and formal hearing in accordance with the requirements of due process. Provides that a decision to remove a judge for misconduct shall be subject to review by the Judicial Conference and ultimately by the Supreme Court by certiorari. Makes such proceedings confidential.

Enables the Commission to undertake an investigation of a judge [sic] physical or mental fitness upon a report of any person. Gives the Commission necessary powers such as the subpoena power, depositions, etc. Authorizes the payment of fees and mileage of witnesses and provides that U.S. marshals shall serve process and execute orders for the Commission.

See *Digest of Public General Bills and Resolutions, 91st Cong., 1st Sess.*, LEGIS. REF. SERV. A-97 (1969).

⁶³ S. 1506 may be considered typical of several bills directed toward the same goal; however, it has received by far the greatest publicity and might be considered the most controversial. I would suggest that it would be more helpful to enact measures such as S. 3936, 91st Cong., 2d Sess., a bill I introduced on June 9, 1970, to implement the constitutional mandate for speedy trials in the federal courts.

⁶⁴ The full text of these letters will be reproduced when the hearings are published.

⁶⁵ 28 U.S.C. § 331 (1958).

⁶⁶ 28 U.S.C. § 332 (1958).

⁶⁷ 382 U.S. 1003 (1966) and 398 U.S. 74 (1970).

⁶⁸ 382 U.S. at 1005-06.

⁶⁹ 398 U.S. at 89.

⁷⁰ *Id.* 142.

⁷¹ One such method has been suggested by Professor Preble Stolz of the University of California at Berkeley, who appeared before the Separation of Powers Subcommittee during its second series of hearings on judicial independence. Both there and in an excellent article entitled *Disciplining Federal Judges: Is Impeachment Hopeless?* 57 CALIF. L. REV. 659 (1969), he recommended that the impeachment process be modernized and streamlined so that it can work more efficiently, while eliminating political considerations to the maximum extent possible. This could be done by the House and Senate within the constitutional confines of impeachment. Professor Stolz suggests that the House name a Bipartisan Committee on Judicial Fitness with its own professional staff to assist it in reviewing the work of the judiciary and investigating allegations against federal judges. The Senate would appoint masters to conduct formal evidentiary hearings and prepare proposed findings of fact and conclusions of law which would be the basis of argument and decision in the Senate.

Senator Robert P. Griffin of Michigan made a similar suggestion during the first series of hearings mentioned above: "At this time, the only way to remove a Federal judge is by impeachment. It could be made much more effective than it is. That is one point I would like to stress. If Congress were to lay down standards and provide better machinery for determining what constitutes a 'high mis-

demeanor' or 'good behaviour,' impeachment could be a far more meaningful deterrent."

⁷² Kurland, *supra* note 47, at 666.

UNEMPLOYMENT AMONG VIETNAM VETERANS

Mr. HUMPHREY. Mr. President, it has come to my attention that the Department of Labor does not now have a practice of regularly identifying and analyzing unemployment statistics among Vietnam era veterans in regular monthly reports.

It seems to me that omissions of this type from regular monthly briefings or statements on the unemployment situation in this country tend to cloud a vital dimension of the job market.

We now report on a monthly basis civilian unemployment figures by race, sex, and age. We have figures for married men and for white- and blue-collar workers.

The statistics on unemployed veterans should be released to the public on a regular basis through the news media, not merely to the limited members who read Labor Department publications.

Current figures on unemployed veterans show that sharp increases have occurred during the past several months. The first report produced by the Labor Department's Bureau of Labor Statistics on veterans appeared last November.

Since then both the number and the percentage of unemployed veterans has risen sharply.

The latest figures to be released on a quarterly basis by the Labor Department show that unemployment among veterans, between the ages of 20 and 24, rose from 10.8 percent to 14.6 percent during the first quarter of 1971, compared with the last quarter of 1970.

There are currently 244,000 unemployed veterans in this country. Three months ago there were 179,000 unemployed veterans.

These figures are shocking. These young Americans have served our country in the Armed Forces. They should be guaranteed the opportunity to contribute in peacetime to America's economic growth through meaningful and rewarding employment.

They must be guaranteed the right to a job. If the business sector cannot provide jobs at the present time, then the Government must provide them.

It makes far greater sense to be training these men or have them performing urgently needed public service jobs, than to consign them to the frustration of the unemployment line or the misery and humiliation of the relief line.

We have a duty and an obligation to provide them proud and productive employment.

So the Senate will know what the current situation is among unemployed veterans, I ask unanimous consent that the most recent analysis, prepared by the Bureau of Labor Statistics on unemployed veterans, be printed in the RECORD.

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

INFORMATION ON UNEMPLOYMENT AMONG VIETNAM ERA VETERANS AND NONVETERANS

| | Number unemployed (thousands) | | | | | | Unemployment rate (percent) | | | | | |
|------------------------|-------------------------------|--------------|-------------|--------------|-------------|--------------|-----------------------------|--------------|-------------|--------------|-------------|--------------|
| | 20-24 years | | 25-29 years | | 20-29 years | | 20-24 years | | 25-29 years | | 20-29 years | |
| | Veterans | Non-veterans | Veterans | Non-veterans | Veterans | Non-veterans | Veterans | Non-veterans | Veterans | Non-veterans | Veterans | Non-veterans |
| All men: | | | | | | | | | | | | |
| 1970: | | | | | | | | | | | | |
| Quarter III..... | 151 | 362 | 62 | 141 | 213 | 504 | 9.1 | 8.3 | 3.8 | 3.8 | 6.4 | 6.2 |
| Quarter IV..... | 179 | 376 | 89 | 153 | 269 | 529 | 10.8 | 9.1 | 5.2 | 4.2 | 7.9 | 6.8 |
| 1971: Quarter I..... | 244 | 449 | 128 | 207 | 372 | 656 | 14.6 | 10.8 | 7.2 | 5.6 | 10.8 | 8.4 |
| Negro and other races: | | | | | | | | | | | | |
| 1970: | | | | | | | | | | | | |
| Quarter III..... | 30 | 74 | 10 | 28 | 41 | 102 | 18.3 | 12.5 | 6.6 | 5.9 | 12.6 | 9.6 |
| Quarter IV..... | 30 | 77 | 16 | 30 | 46 | 107 | 18.1 | 13.7 | 10.0 | 6.3 | 14.2 | 10.3 |
| 1971: Quarter I..... | 37 | 97 | 12 | 38 | 49 | 135 | 20.9 | 17.4 | 8.0 | 7.8 | 15.1 | 12.9 |
| White: | | | | | | | | | | | | |
| 1970: | | | | | | | | | | | | |
| Quarter III..... | 121 | 288 | 52 | 113 | 172 | 401 | 8.0 | 7.6 | 3.5 | 3.5 | 5.8 | 5.7 |
| Quarter IV..... | 149 | 299 | 73 | 123 | 223 | 422 | 10.0 | 8.4 | 4.7 | 3.8 | 7.3 | 6.2 |
| 1971: Quarter I..... | 207 | 352 | 117 | 169 | 323 | 521 | 13.9 | 9.8 | 7.1 | 5.3 | 10.3 | 7.7 |

Source: Bureau of Labor Statistics, May 7, 1971.

THE TRIAL OF JEWS IN RUSSIA

Mr. PERCY. Mr. President, the news that the Soviet Union is bringing increasing numbers of its Jewish citizens to trial on a variety of pretexts is deeply disturbing. One can reasonably suspect that the trials are an effort to intimidate those tens of thousands of Jews in the Soviet Union who wish to emigrate to Israel. In fact, the crimes that become apparent in these trials are not the alleged crimes of the Jewish defendants, but rather the crimes of the state against its own Jewish citizens.

First the Soviet authorities deny their Jewish citizens full freedom to carry on their religious, educational, and cultural traditions. Then, when in frustration these citizens decide to emigrate to a land where they can live a full Jewish life, the authorities subject them to harassment and arrest.

The Soviet authorities should know that such repressive measures can never succeed. For every Jewish citizen brought to trial, a thousand more will want to leave the country.

The Jews of the Soviet Union are entitled to justice in leading their daily lives, and they are entitled to emigrate if they so choose. I hope that all the pressure of world opinion will be brought to bear on behalf of justice for Soviet Jews. This is not simply an internal affair of one country. It is a moral concern of all men everywhere.

VIETNAM REVISITED

Mr. STEVENS. Mr. President, during the Easter congressional recess, I revisited South Vietnam with other Members of the Congress. My last visit had been in late June and early July 1969. At that time, the Vietnamization program had just started. Our troop strength in South Vietnam then was 413,900. This compares to our strength when I was in Vietnam of 287,600. By December 1, 1971 of this year it will be no more than 184,000.

The purpose of my trip this year was to visit personally with the Republic of Vietnam Armed Forces (RVNF); to examine the progress of the land reform program; to inspect the withdrawal of American troops and equipment pro-

gram; and to look into the problems related to Vietnamization.

We left Washington, D.C. on the afternoon of April 7; our flight passed through Anchorage that evening for a short 2-hour stopover, during which I held a press conference at KENI-TV. We also visited briefly with Gen. Bob Ruegg, Alaska's Commanding General, and with my Anchorage secretary and her husband, Barbara and Don Andrews. Then, we flew to Tan Son Nhut airfield, with a refueling stop in Tokyo. The flight from Washington took about 25 hours. With us was a former Alaskan, Col. Joe O'Leary, Chief of Army Liaison to the U.S. Senate.

Even though we were able to get some sleep on the trip over, when we arrived in South Vietnam it was 7:45 a.m. I was quite bushed as I had visited at length with Mr. Katsuyama, Alaska's Tokyo Office Manager, and Mr. Clinton Atkinson, Fisheries Attaché to the American Ambassador to Tokyo when we stopped there. We visited from 1:40 a.m., Tokyo time, to about 3 a.m., at the Yakota Airfield coffeeshop. I had asked to meet with these gentlemen to discuss fishing and timber problems of Alaska relative to Japanese interests.

When we arrived in South Vietnam, I could not help but compare the impression I had recorded 2 years ago to my arrival this time in South Vietnam. Two years ago, we stayed in military quarters, with Marines guarding the gate, and even outside our door. As we drove to Saigon, we had, then, passed bunker after bunker, all of which were manned by United States and Vietnamese forces. This year, we went directly to the Central Palace Hotel—a civilian hotel, where we stayed without any military guards. And those bunkers which were manned this year were around the government headquarters—and had only Vietnamese troops in them.

I am not saying that Saigon is free of war, but it is relatively secure as compared to 2 years ago.

It was over 80° when we arrived in Saigon—quite a change from the light snow conditions we had left in Anchorage the day before. And one thing impressed me more than anything—the attitude of U.S. servicemen I met. All of them seemed committed to our with-

drawal program—from generals to privates the conversation concerned the difficulties—or challenges, however one wanted to view them—in bringing about an orderly withdrawal of our men and equipment. My purpose, as I stated, was to analyze these difficulties to see what we in Congress might do to assist to make our withdrawals as safe and expeditious as possible.

But, first, I had a duty requested of me by Senator JOHN STENNIS of Mississippi—chairman of the Senate Armed Services Committee. JOHN, upon learning that I was going to Vietnam again, asked me to look personally into the land reform program. My first appointment, upon reaching Saigon, was with John Mossler, Director of the Agency for International Development—AID—in Vietnam and his assistants, Ed Kusters, Assistant for Civilian Commenced Activities—AID and Dick Hough, Assistant for Land Reform—AID.

LAND REFORM AND ECONOMIC PROGRAMS

AID told me that their problem was to relate to the Vietnam economy and to assist in stabilizing the piastre—the South Vietnamese equivalent of our dollar. Land reform was essential to this process, I was told, and is now possible in those districts where a secure environment has been created. Security is absolutely essential; without it none of these programs can succeed. Going back to the Tet offensive of 1968, AID traced the development of national Vietnamese policies which, they feel, are leading to relative stability, now, in the South Vietnamese economy. As we withdraw our forces, there is evidence that an acceptable degree of security can prevail but that Vietnamese economic problems will increase. Today, South Vietnam is almost self-sufficient in rice production and may soon produce rice in excess of its needs. This has come about partially through the use of our "miracle rice" which has increased rice yield per hectare dramatically. One hectare equals about 2.5 acres.

AID seeks to increase further rice production, in order that the increase may be used to feed livestock for domestic use and for export. To do this, the Government of South Vietnam introduced a land reform program in March of 1970. Before this program started, about 60 percent of

the available land was privately owned but farmed by tenant farmers. Eighty percent of this tenant farmed land was in the Mekong Delta region. Farming there is labor intensive, meaning that each family farms about three hectares. But, until recently, few of these farmers owned their own land.

The goal of the land reform—or "Land to the Tiller"—program is to give about one million hectares to these tenant farmers. This program applies primarily to rice and secondary crops—vegetable farms. It does not apply to forest land.

AID officials believe the program is progressing well. They pointed out that in the past the North Vietnamese have used absentee landlords as the focal point of their propaganda attacks in this Delta area. There are many stories about liberating forces, entering areas for the first time in several years, being followed by tax collectors and by landlords demanding back rent. Now, with good progress being made in land reform, the "Return to the Village Program" has also taken on a new perspective. These two programs, coupled with the continued growth of the People's Self Defense Force, the regional forces and the popular are the stabilizing influences in the Vietnamization program. I will comment upon the cost to these people later—significantly, these volunteer groups are bearing the heaviest casualties of increased Communist terrorism aimed at preventing the success of their programs.

While meeting with AID and State Department officials, I also discussed the problems of economic stability for South Vietnam. Our principal program to meet these problems is the commercial import program, financed with U.S. foreign aid dollars. Under this program, dollars are made available in the United States to finance the purchase of items importers in South Vietnam want to bring to their country for sale—for example, let us assume a dealer wants to buy some farm machinery to sell in his country. This dealer would arrange his purchase, privately. He would then seek his government's approval of the use of U.S. dollars to finance the purchase. Upon arrival in South Vietnam, he would get the machinery by paying for it with his own South Vietnamese piastres. But, the money he paid would go to a special U.S. account in South Vietnam—which is called the counterpart fund. From this fund the U.S. Government draws Vietnamese money to pay for services and supplies needed for U.S. personnel in South Vietnam. The effect of this transaction is that the South Vietnamese uses his own money—he is not put into the position of bargaining for U.S. dollars, a process which would cause rapid inflation if unchecked.

We also discussed the AID feelings about economic reform enacted by the South Vietnamese Assembly—new taxes, wage increases for civil servants, and veterans programs. I was quite impressed with our AID people in South Vietnam. My only complaint about their program is that they are too dedicated—and too inclined to want to try to solve all South Vietnam's problems with U.S. dollars. That cannot be done—and the best AID people to me seemed to be those that

have stimulated South Vietnamese to do something new with their money. I saw a good example of this later in the Delta. On that first day in Saigon, I had another visit to make.

After my conferences with AID, I went to the Military Assistance Command, Vietnam—MACV—Headquarters. There I had asked to meet with the Assistant Chief of Staff for Logistics—J-4—Gen. Herron Maples. Particularly, I wanted to know what was being done with all of the equipment which had been used by military units already withdrawn from South Vietnam. This led to a briefing on the retrograde program.

THE "RETROGRADE PIPELINE"

My good friend, Bob Kunzlg, Administrator of the General Services Administration, had preceded us in Saigon by only 1 day. Throughout Vietnam, I was to find that this dedicated Administrator had gone to the source to see first hand the condition of this equipment and how it is handled. The reason Bob was there is obvious. He handles part of it when it comes out of the other end of the "Retrograde Pipeline." This is the name given to the program through which literally millions of tons of equipment are being returned to the United States. It involves classification of the equipment; renovation or repair of it, either in South Vietnam, Taiwan, or Okinawa; and shipment to disposition centers in the United States or allied nations by American ships. This equipment is given the SCRAM code upon arrival at a retrograde center: SCRAM 1 is equipment ready for use; SCRAM 2 requires minor maintenance; SCRAM 3 involves major rebuilding, and SCRAM 4 all the remaining for which repair is uneconomical. Only 5 percent of all the equipment in South Vietnam is in SCRAM 4 condition.

This massive job of moving upwards of 50,000 tons per month of equipment is one of the reasons for our phased withdrawal from Vietnam. This equipment, needed not only for military but also for civilian use in the United States, is worth billions of dollars. The problems encountered so far relate to the limits of our port capacity, our ability to process the equipment with reduced personnel in Vietnam, and, most importantly, the actual time involved in processing. For instance, each item must be thoroughly cleaned—all weapons disassembled, cleaned, and packed; all vehicles cleaned with high-pressure water or steam and disinfected for shipment. Before shipment, each item must pass rigorous inspection from our Department of Agriculture before it may be returned to the United States.

Later in our trip I saw the ports of Cam Ranh Bay, Da Nang, and Qui Nhon, where almost all of this equipment is processed through the "retrograde pipeline."

We left MACV Headquarters, and that evening enjoyed a drink with other Americans while we sat in the open air lounge of the Continental Hotel—an old Saigon landmark—and dinner at the Blue Diamond Restaurant. Again, my mind went back to 1969 when Senator HENRY BELLMON of Oklahoma, who did

not accompany me on this trip, and I could not go out at night in Saigon. Now, we were almost as safe in downtown Saigon as downtown Washington, D.C.

MEKONG DELTA DEVELOPMENT

On our second day in Vietnam, we visited briefly Gen. Frederick C. Weyland, the Deputy Commander of our forces in Vietnam. Commanding Gen. Creighton Abrams was not in Vietnam. I was deeply touched by General Weyland's feelings about the increasing drug problem among our men in Vietnam. Apparently, this problem gets worse as our men are removed from the battle zones. Marijuana and even heroin are easy and cheap to acquire. But, there appeared to be hope in the "amnesty program"—under which our men can seek medical treatment for drug addiction without fear of punishment. The general gave us an excellent briefing on the recent operation in Laos. He is much impressed with the ability of the South Vietnamese soldier. The total impact of this operation will not be known for some time but a most interesting benefit occurred in Phnom Penh. More of this later.

We also paid a courtesy call on Ambassador Ellsworth Bunker, our Ambassador to Vietnam. This distinguished career foreign officer, now in his late 70's, is a great American. He has more stamina than most men half his age and his knowledge and understanding of the total Asian situation is immense. Our visit was brief, as we were to have dinner with Ambassador Bunker on our last night in Saigon. Also, we were anxious to get out to the Mekong Delta.

This area, an immense delta formed by the meandering Mekong River, once was the hotbed of Communist activities in South Vietnam. In 1969, Senator BELLMON and I had visited our Navy, Air Force, and Army installations in the Delta. Now, in 1971, all these bases had been turned over to the Vietnamese. Our U.S. people left in the Delta, which is now known as Military Region 4—MR4—are advisors to the South Vietnamese and the support troops for these advisors. These Americans are located in approximately 120 places throughout the Delta. They coordinate communications, supplies, and the efforts of CORDS—Civil Operations and Rural Development Support Program.

I had asked to see specific examples of our CORDS program in the Delta, so we flew to Binh Thuy Airfield, near Can Tho, where 2 years ago Senator BELLMON and I had inspected the pride of the Vietnamese Air Force. The whole airfield is now Vietnamese. After landing at Binh Thuy, we visited briefly with Brigadier General Hinh, Deputy Commander of Vietnamese Forces in MR4. He told us of the actions his forces were taking to rout out the North Vietnamese troops still active in the Seven Sisters mountain area. The other area of major concern is the Yuminh forest, where South Vietnamese troops have, for the first time in many years, occupied territory which had been controlled by the enemy.

Significantly, General Hinh pointed out that the success of the farm program has deprived the communists their

THE KHMER REPUBLIC

greatest propaganda weapon. Delta farmers no longer pay taxes to the marauding North Vietnamese troops—primarily because the farmers are now farming their own land, but also because the Peoples Self Defense Forces, the Regional Forces and the Popular Forces have restored relative security.

The Mekong Delta supplies 75 percent of the rice and 80 percent of all other foodstuffs other than fish produced in South Vietnam. Near Can Tho we inspected a small cooperative vegetable farm. This farm was owned by a series of families, all of whom worked on the land. Unfortunately, this season's crop had been almost destroyed by worms. We saw the hard work these people were doing to burn every single piece of their plants in an attempt to destroy this worm. And, a team from CORDS and the Vietnamese Department of Agriculture conferred with these farmers while we were there to offer technical assistance. After this conference was over, we met with leaders of the local 4-H club at their school.

From the cooperative farm we drove to the largest rice mill in the Delta. Owned by a Chinese who has been in South Vietnam for 40 years, this mill processes rice from all over the Delta. It was obvious that everyone, including the owner, worked hard and was proud of this mill—which had been imported from Britain. With the advent of miracle rice, this mill processes almost one-eighth of all the rice used in South Vietnam. The Communists have not tried to destroy this or any mill—because, as the owner remarked, without rice no one could survive in Asia. Much of the rice is held in warehouses for as long as 10 months and the owner sells his product when he feels he will get the best price. Incidentally, he pays cash to the farmer for the unprocessed rice on delivery to his mill.

Our last stop in the Delta farm country was at a small chicken farm. This was not a model, or even a prosperous farm. But it was indicative of the growth of independent farm operators in the Delta. With his own money, the small farmer had purchased some chicken breeding stock—from the United States with the help of AID. He had built his own incubators, using diagrams sent to him by a relative in training in the United States. Now, this has grown to a fairly large operation, and the farmer proudly showed me his plans for expansion. And like all the other Vietnamese farmers I had met, he was profuse in his thanks to our Government for our help and for "saving" his country. The AID advisers told us that this farm was typical of many which were springing up all over the Delta.

We went back to Can Tho where I met with Joe Terbar of Ketchikan, Mark Anderson of Petersburg, Bob Humphreys and Jerry Earle of Anchorage, and Emil Taug of Juneau. This was the first of several groups of Alaskans now serving in South Vietnam, with whom I visited while there. With every group, I discussed the Calley trial, the progress of our withdrawal, and Alaskan issues, such as the pipeline and native land claims—which were of interest to our men there.

We left Can Tho for a most interesting part of our trip. At my special request, we were cleared to go into Phnom Penh, the capital of the Khmer Republic, formerly known as Cambodia. We have no U.S. troops in Cambodia, but the United States has provided military aid—in equipment and supplies—in recent years. After a break in diplomatic relations of more than 5 years, we reopened our embassy there after the fall of Sihanouk in 1970.

Our Ambassador there, Emory Swank, a career Foreign Service officer, arranged both a military and political situation briefing and also invited us to stay in the Embassy, where we had dinner that night. It was Saturday, the night before Easter, and I have never seen a more beautiful city. Perhaps we discounted a little for Phnom Penh because it was still free—vibrantly free—when we had expected to see a besieged city. Less than a year ago, few informed observers held much hope for this city. All roads approaching the city had been cut—and only the supply ships convoyed up the Mekong from South Vietnam kept its defenders alive. But, we were told that as a result of the South Vietnamese pursuit of the North Vietnamese in Laos, the enemy was compelled to withdraw a portion of its troops from Cambodia. Also, supplies which would have come down to the North Vietnamese attacking Cambodia were seized or destroyed in the Laotian campaign.

Our people in Cambodia are few in number—their obvious attachment to this small country led them to spend a great amount of time in the period we were there in explaining in detail—both at briefings and in informal conversations—how they feel Cambodia's future is tied to the success of our Vietnamization program in South Vietnam.

The military situation was not rosy—Route Four from Kom Pang Som to Phnom Penh was closed at Picknell Pass, where the North Vietnamese had squeezed off all traffic from Cambodia's major port, which was formerly known as Sihanoukville. While we were told that from a military standpoint the Cambodians could reopen the road at any time, the cost in manpower to keep the route clear has been determined to be prohibitive. Angkor Wat, Cambodia's famous temples, were occupied by North Vietnamese, and river traffic from Phnom Penh to Laos was virtually nil. But, there was cause for hope—the Cambodian army was turning away volunteers. The road to South Vietnam and the Mekong River to South Vietnam were open. Two hundred new International Harvester trucks, given to Cambodia by Australia, had just been delivered by road from Vung Tao, South Vietnam and, above all, over one million refugees had entered the city and been taken into private homes. Phnom Penh was not a refugee city—with all that that connotes. Each morning, thousands of residents went to the sidewalks, streets, and public areas, just after dawn, to sweep and pick up any rubbish. Men, women, boys and girls were in uniform, and security check points around the city were alert.

At dinner, we talked with the president of the council, the minister of information, the deputy chief of staff of their military, and a member of the Khmer National Senate. Each of these people expressed guarded optimism and the categorical opinion that if it had not been for South Vietnamese actions against the North Vietnamese in Cambodia and Laos, their country would have had very little chance of survival during this very critical period.

It was interesting to note that several of these officials had served under Sihanouk. Their loyalty and devotion was to their nation—not to its leader who was deposed. There was no evidence of any purge when the Lon Nol government took office—and the only evidence I could find of Sihanouk's influence was in large billboards on which had been painted scene showing citizens throwing their displaced former leader out of Cambodia. The nation had survived a major test when its new leader, Lon Nol, suffered a severe illness. Subsequent to my visit Lon Nol has returned to Cambodia and it would seem, has again established himself as the leader of the new government.

They are a proud people, these Cambodians. Their buildings at Angkor Wat date back to 802 A.D. They lived for over a hundred years as a French protectorate, but their religion and their language survived. And wherever we went, in the shops, at the airport, or at church on Easter morning, the Cambodians, in their shy manner, acknowledged that they knew we were Americans and smiled, waved, or saluted our flag—which was on our car. I was sorry to leave—and seriously thought of staying on longer in Cambodia, but we were due in Cam Ranh Bay, to inspect the first port of debarkation.

CAM RANH BAY

This is one of our four ports involved in the "Retrograde pipeline." But here, for the first time, we became aware of some of the difficult problems of Vietnamization.

Brigadier Harold A. Kissinger, commander of this U.S. supply depot, explained to us that the U.S. serviceman wants, and the general tries to get to him, fresh milk, meat, ice cream, and normal PX supplies. To plan to get these supplies to a unit ready to "stand down"—that is ready to go home—and then get the men to their transportation home and the supplies and equipment back into inventory ready for use or shipment back to the States is a complicated problem of logistics.

One of the most amusing incidents of our trip occurred at Cam Ranh Bay. In sending out the message of our visit, somehow the abbreviation for Alaska, Ak, had become the abbreviation for Arkansas, Ark. I walked into a room full of men whom I had been told were my constituents—only to find they were all from Arkansas. We all had a good laugh and I answered their questions as best I could, even though I am certain they were prepared for one of their own Senators, not an Alaskan.

Cam Ranh Bay is an excellent natural deep water port. It was used initially by

the French but has been improved by our forces in recent years. "Retrograde" activity takes place throughout the port facility. One DeLong pier will soon be refloated and moved from Vietnam. Other facilities are being dismantled for shipment. One important activity in this area is the Naval Training Command which is run entirely by the Vietnamese. This school trains sailors in basic skills as well as advanced skills in gunnery, navigation, and storekeeping. The graduation rate is very high and whenever possible dropouts are salvaged in later courses. Since the U.S. naval influence is being withdrawn very rapidly, the importance of this vital training facility is obvious.

TO THE HIGHLANDS

After Cam Ranh Bay we flew inland to Pleiku. Senator BELLMON and I had been there in 1969 on our way to Ben Het, then a fire support base which had just survived a massive attack from the North Vietnamese. Now, once again Ben Het was under attack—but this time it was defended by South Vietnamese. U.S. forces were involved in air support, but the fighting on the ground—the artillery battle and about one-half of the helicopter support—were being planned and carried out by Vietnamese. The highland area, sparsely populated, is inhabited primarily by Montagnard tribes. These are little people who live off the land. Periodically, they go to a new area, cut any vegetation, burn it and leave the ashes to form fertilizer. Then they move their whole village to the new area, and when the land has been farmed for a year or two, they move on. It is a dry, hot area—but one visited by monsoons yearly. These people received training from the special forces in past years and have now formed self-defense units, similar to those in the lowlands. The necessity for permanent defenses has led to the building of more permanent villages, and their way of life is changing. But one thing is certain, they are now trained and equipped to defend themselves. Here again, our role, ever reducing, is that of providing advisers.

We were only 20 miles from northern Cambodia and not far from Laos. Brig. Gen. George E. Wear, who is completing his third tour in South Vietnam, and his staff briefed us on the recent Laotian battles, known as Lam Son 719. Helicopter units from Pleiku had given support to the South Vietnamese when they were in Laos. It will be some time before this series of battles can be completely analyzed. It was the opinion of General Wear and his staff, however, that the enemy equipment, ammunition and supplies destroyed in Laos would take many months to replace and that this operation would permit our forces to be withdrawn as South Vietnamese units reached full strength.

From Pleiku we went by helicopter to Plei Djerent, a fire-support base near the Cambodian border. Here we found four Americans who serve as advisors to the Vietnamese unit which has taken over the base—a special forces team of 12 men had formerly supplied this advisory effort. Next to the base was a new Montagnard village—and, significantly,

the Vietnamese unit was commanded by a Montagnard captain. One thing struck me as I toured this base with the young captain—these people do not need the supply and support our troops do. In the first place, their families are in the village. Secondly, their staple food is rice, and the captain showed me his enormous rice storehouse. With the exception of a water supply he could survive a long siege. Thirdly, they do not use as much mechanized equipment as we do because they do not have to bring in as many supplies and also because they do not rotate and replace personnel as we do. They do not need to—their troops are at home. From all accounts, they can take care of themselves. But, it must be remembered that these fire bases, which guard the confluence of rivers or of roads, are manned by relatively few men. The North Vietnamese had just attacked Fire Base 6, near Pleiku, with several regiments. These bases are of strategic importance because they can restrict the flow of supplies to the North Vietnamese operating in South Vietnam—supplies which came down the Ho Chi Minh Trail. When attacked by units of greater strength, mobile Vietnamese relief troops are sent in. These are the battles you have read about—they are significant in the tactical sense—but are decisive only as they affect the local situation.

We spent the night in Pleiku and at breakfast found evidence of the supply problem we had discussed in Cam Ranh Bay. Pleiku is supplied by road from Que Nhon and the supply trucks had run into an ambush and turned around. Pleiku was out of eggs and some other items of fresh produce. It was interesting to me that here, in a remote area, life had become so normal that the shortage of fresh eggs could be considered to be a problem. But that afternoon, I was told, the supply convoy arrived.

DA NANG

Two years ago when I visited Da Nang, it was the headquarters of the marines under the command of Lieutenant General Nickerson. Now all the marines have been withdrawn and the Army XXIV Corps has taken over Da Nang. And, once again, I found a different role. The Army, in an advisory role, is completing the plan to train and equip the South Vietnamese who are now taking the full load of defending this critical area. This was MR1, formerly known as I Corps. It is just south of the Demilitarized Zone—DMZ—and is the area into which most of the supplies for North Vietnamese units enter the South.

This was one of the areas hardest hit by the Tet offensive of 1968. And one of my interests was to find out if the civilian economy had been restored.

To do this, we went to the CORDS office for MR1. Here I was told that the railroad from Hue, the ancient capital of Vietnam, to Da Nang had been restored. Another significant item, visible not only in MR1 but throughout South Vietnam, was the amount of individual home construction. And I do not mean construction of shacks, but of concrete, prefabricated dwellings. We drove through Da Nang—2 years ago we went everywhere by helicopter.

At Da Nang I met briefly with Jim

Williams, whose father is with Alaska Sales and Services in Palmer. He had heard I was there and borrowed a bicycle to ride over to see me.

And, I flew by helicopter to Phu Bai where the 101st Airborne Division is now located. To us old World War II types, that outfit brings back memories of the Battle of the Bulge. Once again, I found several Alaskans: Maj. John Johnson of Petersburg, WO Paul Cunningham of Juneau; Sgt. Robert Davison of Fairbanks, Herman Sundberg of Kodiak, Paul Boone of Kenai, Rodney Lincoln of Kotzebue, Mike Dwyer of Anchorage, and Dick Kaniver of College.

Also in Da Nang was the naval support facility. Here, naval vessels used to patrol the South Vietnamese coastline and inland waterways were being reconditioned and turned over to the South Vietnamese Navy. Our Navy was ahead of schedule in doing so. We had an interesting visit with the Vietnamese commodore who told me of the serious lack of trained officers and petty officers. Their Navy has expanded rapidly—and while it has adequate numbers of volunteers—it lacks experienced personnel to command these vessels. The importance of the training school we had visited earlier at Cam Ranh Bay was obvious. The commander was pleased with the quality of this training but said he hopes these trainees have time to get the experience they need to replace our Navy.

Dinner at Da Nang was again an interesting experience. Lt. Gen. James W. Sutherland, Jr. who now commands the area, gathered together a group of his officers and we discussed everything from the Calley trial to riots at home. These units will be coming home soon and their knowledge of current events reminded me of the changes in today's army. They have this week's national magazines. There was a radio and TV station operating in the evening—a far cry from my days in China as a pilot in World War II when the news we got came by letter, several weeks old, and Tokyo Rose was our only source of radio music.

The following morning I took off early for the headquarters of the 23d Infantry Division at Chu Lai. This is the general area of the My Lai incidents and I expected the discussion to be concerned with the Calley trial. In this unit I met Gary Berkeley of Metlakatla, Tim Richards of Point Barrow, and Neil Hollenbeck of Seward. They were in the 198th Brigade of the Americal Division. In the 196th Brigade were Fred Hosford of Petersburg, Al Brown of Ketchikan, Bob Borgen of Kenai, and Bill Moore who has cousins in Nome.

Surprisingly, comments on the Calley trial were that the men of the Americal Division thought Lieutenant Calley had a fair trial. They seem to believe, as I do, that the trial should have taken place sooner. And, most seem to believe that Calley must have gone berserk—that he could not have been in his right mind.

We flew from these units to Qui Nhon, which is another debarkation center. I personally inspected the vehicles and equipment that were being screened and coded under the SCRAM codes for retro-

grade. And I also met John Paul of Sitka, who is serving in Qui Nhon.

The impressive thing about the operations in Qui Nhon is that this facility is capable of completely processing all of the equipment from a unit—from tanks and helicopters to belts, shoes, and sidearms. The General Accounting Office has established a firm accounting on these items—not only because their value is astronomical but also because we do not want this gear and equipment to fall into enemy hands or get involved in black market activities. As men and equipment continue to go out of Vietnam, supplies for the advisory force and remaining units still come in. Qui Nhon is the beginning of the road to Pleiku and on to Ben Het, so we checked into the problem of continuing to supply our troops as they await withdrawal. It takes three or four support troops to keep one man in the field, I was told, and the supply and communications problems increase as units "stand down."

My final visit that day was to the 67th Evacuation Hospital in Qui Nhon. This field hospital was an excellent facility. I discussed with the Administrator, Col. Roland H. Shambruck, the adequacy of the equipment and his staff. Doctor Shambruck showed me the operating rooms, introduced me to his surgeons and doctors and nursing staff, and then took me through the hospital. This was one time I was glad not to find an Alaskan—there were none there. But I talked with men from almost every State of the Union—most had never met a U.S. Senator, and many were surprised to see me there. The total uselessness of war manifests itself in a hospital—although this one made me proud to be an American. Our men all respected our medical people—and my own respect grew even more when I found there were several enemy soldiers there, being treated as well as our men. From what I have heard of how our POW's are treated, this humane treatment of prisoners by our medical people meant much to me. Also, these doctors showed me Vietnamese children with birth defects—such as cleft lips and other abnormalities—which our surgeons had corrected. This hospital was at least one-half full of Vietnamese—which led me to inquire about the progress of Vietnamization in the medical field. Vietnam, unfortunately, graduates only about 150 doctors per year, so it will take some time to fill this need. I suspect our medical people may be among the last to leave South Vietnam.

AMBASSADOR BUNKER

On my final night in Vietnam, I returned to Saigon. Ambassador Bunker had invited members of the South Vietnam Senate to have dinner with us. The result was a lively discussion because some of the Senators were supporters of President Thieu and some were not. The Ambassador expressed his feelings about the progress of the Vietnamization program. And we discussed at length the need for further action by Vietnam to stabilize its economy and to assure security for the people.

Security—personal security—seemed

to be most important to the South Vietnamese Senators. One told me he had personally driven from Hue to Da Nang very recently. This, he said, would have been impossible less than a year ago. On the other hand, another senator expressed deep reservations over the ability of his country to survive after we withdraw our troops. Yet, he stated he knew this withdrawal was inevitable. Another item we discussed was taxes. The government is reluctant to increase taxes—or to tax some items never taxed—because of the propaganda efforts of the enemy. The Communists have put out leaflets saying that, if the rural people support Saigon, they will pay more taxes. Since their productivity and income goes up when security is restored, more taxes naturally result.

Ambassador Bunker seemed quite interested in our observations about Phnom Penh—as did the Vietnamese Senators.

OBSERVATIONS AND CONCLUSIONS

The rapid growth of the volunteer, nonregular, defense forces—PSDF, RF, and PF—in South Vietnam has enabled the regular Army and Air Force of Vietnam to become more mobile and to replace our American combat forces. This long, guerrilla war had sapped the confidence of South Vietnam. But, according to South Vietnamese leaders, the Cambodia and the Laos engagements have started to rebuild that confidence. There are now over 4 million men in the PSDF—it is really a home guard. It is armed with automatic rifles and over 1,300,000 PSDF men have been trained to use automatic weapons. And, another 1.7 million PSDF men have been trained to support combat troops. In addition, the regional forces and popular forces number in excess of 550,000 men. These are similar to our National Guard—on active duty. They also are trained and armed. And, significantly, volunteer, unpaid forces, now bear about four-fifths of the casualties inflicted upon South Vietnamese by North Vietnamese attacks. These volunteers are the people who guard the villages, hamlets, and district capitals. Their casualties come from ambushes and assassinations. But, as the "land to the tiller"—land reform—program evolves, they will truly be guarding their own homes on their own land.

It is the growth of these forces that also gives stability to the Vietnamization program as we withdraw our troops. There is now a minimum reliance on free world forces by South Vietnam, except for air power. Even there we have trained more pilots, have turned over several helicopter squadrons to the South Vietnamese, and are training their maintenance people as fast as possible.

There are now about 45,000 Koreans, 7,000 Australians, 10,000 Thailand troops, and about 400 New Zealanders left in South Vietnam. In addition, the South Vietnamese have now trained 110,000 national police. Using expert people from all those forces, the South Vietnamese now have almost 13,000 men in what they call Key Inner Teams who travel throughout the country training more PSDF, FR, and PF volunteers.

My conclusions from this trip are:

First. Prisoner-of-war question.—I remain convinced that the key to the complete withdrawal of our forces from South Vietnam lies in the prisoner-of-war issue. It is my firm hope that we can convince the North Vietnamese that this is the key to our complete withdrawal. Senator MARLOW COOK, of Kentucky, and I have introduced a resolution to express the sentiment of the Congress that if the North Vietnamese will agree to release our prisoners we will withdraw completely within 9 months. From what I saw on this, my second visit to South Vietnam, we could do this—honorably, safely, and with the knowledge that all our men who survived this war were home.

Second. Vietnamization program.—It is my conclusion that the Vietnamization has worked. South Vietnam should be able to survive the continued attacks from the north without our help. Ground military operations have been assumed, almost completely, by South Vietnamese forces. These operations are now supported by U.S. airpower. The training period for pilots seems to be the greatest reason for delay in Vietnamization of airpower.

Third. National commitment.—We have committed our Nation to a withdrawal of our forces and the South Vietnamese know and acknowledge this decision.

Fourth. Safety a must.—Our withdrawal program is being carefully worked out with the safety and security of our troops being the first consideration. Significantly, I was told that not one American has been injured in combat as a result of withdrawal. This, to me, is important. The difference between redeployment based upon Vietnamization and retreat based upon immediate withdrawal without regard to whether the South Vietnamese can hold back the attacking North Vietnamese is the difference between an honorable termination of our assistance to South Vietnam and defeat for all free world forces in South Vietnam.

Fifth. Outlook for Cambodia.—The Khmer Republic—Cambodia—has a reasonable chance to survive. They do not ask for our combat troop support. They do want military aid to equip their volunteers. They are at a crossroad. If they decide to accept more Vietnamese armed assistance, they are insured some degree of security. However, increased Vietnamese participation could cost the Cambodians some loss of control of their own affairs. On the other hand, if they fail to align closely with these South Vietnamese Forces during the vulnerable expansion and training phase now being experienced by the Cambodian Army, the Communists might defeat Cambodia's newly organized forces and take over the country.

Sixth. Easing of tensions.—The lessening of tensions between China and the United States gives me hope that there is a chance that the Chinese will lessen their support of North Vietnam as we withdraw from South Vietnam. This is only a hope, but one which holds great promise for peace in all Southeast Asia.

HEARINGS ON EXECUTIVE RE-ORGANIZATION BILLS OPEN

Mr. PERCY. Mr. President, I am pleased to inform my colleagues that today the Chairman of the Government Operations Committee, the senior Senator from Arkansas (Mr. McCLELLAN) opened hearings on the President's four major departmental reorganization bills. These bills, which have strong bipartisan sponsorship, are S. 1430, to create a new Department of Community Development, S. 1431, to create a Department of Natural Resources, S. 1432 to create a Department of Human Resources, and S. 1433, to create a Department of Economic Affairs.

Hearings today in the full committee were opened by the Director of the Office of Management and Budget, Mr. George Schultz, accompanied by Mr. Arnold Weber, Associate Director, and Dwight Ink, Assistant Director. We are privileged also to have testimony from the distinguished former Secretary of Health, Education, and Welfare, Mr. John Gardner. On Wednesday, May 26, we will hear testimony from Mr. Roy L. Ash, the Chairman of the President's Council on Executive Organization; Mr. Ben Heineman, Chairman of President Johnson's Task Force on Executive Organization; Mr. Joseph Califano, former Special Assistant to President Johnson, and Mr. Charles Schultz, formerly Director of the Bureau of the Budget.

I wish especially to commend the Chairman of the Committee, Senator McCLELLAN, for his decision to hold early and comprehensive hearings on the four bills. I also look forward to working closely with the able Chairman of the Subcommittee on Executive Reorganization, Senator RIBICOFF, who will take a very active role in these hearings, and its ranking minority member, Senator JAVITS. In this strictly nonpartisan context I hope we can shape these bills carefully and move ahead expeditiously with Senate action; as witnesses testified today, protracted indecision will only deepen the unrest and concern felt by Federal employees during any reorganization effort. I ask unanimous consent that the opening statements of Senator McCLELLAN, Senator RIBICOFF, Senator ROTH, and myself be inserted in the RECORD at this point.

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

EXCERPTS FROM OPENING STATEMENT OF SENATOR JOHN L. McCLELLAN, GOVERNMENT OPERATIONS COMMITTEE HEARINGS ON EXECUTIVE REORGANIZATION, MAY 25, 1971

This morning we begin our hearings on the President's executive reorganization proposals which are embodied in 4 bills, namely: S. 1430, to establish a Department of Community Development; S. 1431, to establish a Department of Natural Resources; S. 1432, to establish a Department of Human Resources; and S. 1433, to establish a Department of Economic Affairs.

These bills would restructure the Executive Branch by merging the Departments of Agriculture, Interior, Commerce, Transportation, Labor, Housing and Urban Development and Health, Education and Welfare into the four new cabinet departments mentioned. The Departments of State, Treasury, Defense

and Justice would be retained without alteration.

According to the Administration, The Department of Natural Resources would bring together the many natural resources responsibilities now scattered throughout the government—

The Department of Community Development would consolidate the wide variety of physical, social and economic programs now concerned with our urban and rural commitments—

The Department of Human Resources would promote the development and well-being of individuals and families in partnership with States and local governments, public and private institutions and individual citizens—

The Department of Economic Affairs would bring together all federal programs which facilitate the growth and health of the U.S. economy.

The public is rightfully demanding improved service in the transaction of its business, and those of us in government are under a special obligation to increase the efficiency of its operation, eliminate waste and costly extravagance. In light of the present status of our economy and the proliferation of federal services, there is perhaps no time in history when it has been more important to evaluate governmental effectiveness.

In the past 20 years, the number of Cabinet Departments has increased from 9 to 12 and major independent agencies from 27 to 41. The executive branch of the federal government is now the largest and most complicated enterprise in the world, with more than 1400 domestic programs distributed among 150 separate departments, agencies, bureaus and boards. During this period the federal budget has also sky-rocketed—from \$42 billion to over \$225 billion—and there are now over 2.8 million federal employees.

Extensive investigation by past governmental study panels has disclosed that the highest aims and ideals of Democracy can be thwarted through wasteful extravagance and excessive costs. Thus, we must carefully scrutinize and evaluate the economic feasibility of the President's proposal.

The concept and attempt to overhaul the structure of government is hardly new. Indeed, I had the privilege of assisting in its last major revision as a member of the Hoover Commission. In the past 20 years, however, there has been no broad overview of the executive branch. Major changes have come about only piecemeal—such as the addition of the Departments of Health, Education and Welfare (1953), Housing and Urban Development (1965) and Transportation (1966).

A government the size of ours must, of necessity, make use of modern management techniques if it is to effectuate its goals. However, the true measure of governmental strength is not architectural design. Rather, the most critical issue in any federal reorganization is whether this nation of 200 million people will be better served—will they reap any benefits therefrom.

The present cabinet departments were established to meet special needs and requirements of the nation and were charged specifically with the promotion and protection of vital areas and interests of American life. Therefore, we approach the proposed changes with utmost care to insure that the effectiveness of our present structure is retained and that any restructuring will be more economic and efficient.

These first two days of hearings will be devoted solely to hearing the explanation of and justification for these reorganization proposals from administration witnesses. With that record before us, we will then endeavor to hear from as many interested parties and organizations as possible in subsequent months so that we can provide

an in-depth report to the Congress and the American people on these proposed reorganizations.

I am not prejudging the President's proposals. Like him, I want our Federal Government to be as responsive to the needs of our people as possible. And it is with this in mind and in this spirit that the committee will proceed.

STATEMENT OF SENATOR ABE RIBICOFF

Following is Senator Ribicoff's opening statement at the Committee on Government Operations hearings on the President's reorganization proposals held at 10:00 a.m. on May 25, 1971, Room 3302 New Senate Office Building.

Mr. Chairman, today the Committee begins perhaps the largest task in its distinguished history under your leadership—the consideration of the President's proposals to restructure the executive branch of the Government.

Sixteen years have passed since the last major public study of the executive branch—the report of the second Hoover Commission. During that time the national budget has tripled. Old agencies have grown and we have also established two new departments, more than 80 new agencies, and enacted literally hundreds of new programs. In terms of actual dollars it means the Federal government has grown from a \$168,000-a-minute enterprise in 1955 to a half a million dollar-a-minute enterprise in 1971.

Efficiency alone would be sufficient reason to take a long and thorough look at the executive branch of Government—its success and failures in absorbing this growth.

But there is an even greater reason why we need to assess our National Government. In recent years, our promises have outrun our performance, leading to a loss of confidence in government. Across the country people feel that government is unmanageable, that it is beset by confusion, delay and a failure to achieve our goals.

The problem is not that we have neglected management, but that we have not related it to the larger goals and our purposes we seek to achieve.

To improve management and make government more responsive to the people, the President has presented a far-reaching plan to combine 8 departments and numerous agencies into four super departments. This proposal deserves our serious exploration.

We must measure the President's proposal against three standards:

1. What is the administration's philosophy of government and what are the policy goals for the Nation in the 1970's?

2. What is the role of reorganization in implementing that philosophy and achieving those goals?

3. What form of reorganization is most appropriate for America's present and future needs?

Within the broad framework suggested by these questions we must examine carefully the many serious problems affecting the Nation—urban and rural development, poverty, pollution and education, to name just a few. Hundreds of programs have been passed and funded by the Congress dealing with them. But if we are to evaluate the reorganization proposals, we must look beyond the immediate problems to our national goals. As a Nation, where do we want to be in ten years? Can we state our goals in a way which helps us evaluate both the departmental proposals and will later enable us to assess the performance of the new departments?

This is where the administration's proposals are presently deficient. Nowhere in the Ash Council's report or the administration's supporting documents is there a statement of our national objectives or how the reorganization proposals will help us achieve those

objectives. What are the Nation's goals and priorities for the 1970's? We do not know. These are fundamental questions. We cannot reorganize in a policy vacuum. We cannot reorganize unless we know what we are restructuring for.

We must look not only at objectives and priorities; we must also explore the philosophy of government underlying the proposals. How, for example, will the departments function in light of the growing demands for citizen participation from all segments of our decentralization society? It is a fundamental principle of our society that those affected by governmental decisions should have a voice in making them. We must devise mechanisms by which this participation can be secured in responsive—and responsible—ways.

The President's proposals would profoundly alter the relationship of citizens to the Federal Government by changing the balance of power between Washington and the field offices throughout the country. Will this improve citizen access or tie it in new knots of red tape?

The Federal system itself may be greatly affected. What are the implications of restructuring at the Federal level for governments at the State and local level? Will their programs and policies be enhanced or harmed by these proposals?

Most importantly, we must keep our eyes on the future. Rapid change pervades our society. We must try to structure the new departments so that they can perform what one observer has called the much needed "lookout" function with respect to new problems and issues. We must shape our institutions so that they become more capable of recognizing, defining, and meeting the emerging needs of the future. We cannot force the future into the framework of the past. The focus of new departments should be on the horizon as we seek better ways to solve old problems and new ways to meet the emerging needs of the 1970's.

We all recognize a need for some form of reorganization, but is this the best plan which can be devised? I would hope that our hearings will cover the widest possible range of alternatives. That is why, for example, I have introduced S. 1485, to create a Department of Education. By considering all of the choices before us, I am hopeful that our final product will reflect the best thinking of our time.

Finally, we should recognize that while reorganization can be an important key in solving our problems more quickly and effectively, they will not yield to organization alone. We have been reorganizing our Federal environmental programs for a decade, and there is no evidence that reorganization has cleaned up one mile of river or cleaned a cubic mile of air. There are no cheap and easy answers to the problems we face. Reorganization is no substitute for the long-term, large-scale commitments of the money and manpower that are essential ingredients in complex undertakings.

These are the kinds of questions we must explore. But we must look at them in the broader framework of the philosophy of government, the delineation of national goals and policies, and an orientation to the future. If we do, I believe, we will make a substantial contribution to both the Federal Government and the Nation.

STATEMENT OF SENATOR CHARLES H. PERCY

We are launching a series of hearings today that is surely of historic significance. For the first time in at least a quarter of a century the United States Congress is beginning a full-scale reconsideration of the organization and management of the federal executive structure. The need is clear. Since 1950:

Three new Cabinet Departments have been created.

The number of independent agencies has increased from 27 to 41.

The Federal budget has increased from \$42 billion to \$225 billion (taking into account the changed method of presenting the budget.)

The number of grant-in-aid programs has reached an estimated 550.

An estimated 850 inter agency committees have been created to try to coordinate agency programs.

The phenomenal growth both of the functions and the size of the Federal Executive since World War II challenges Congress to exercise its authority to oversee government operations and to begin a major reexamination of the structure of the executive branch. This important congressional responsibility has, I believe, been underutilized.

The effectiveness of federal programs has been impeded not so much by faulty programs or unwilling people, but because of poor organization marked by conflicts among narrowly organized bureaus and agencies, inability to make decisions, overcentralization of power and decision-making authority in bureaucratic power centers in Washington and lack of responsiveness to local needs.

We in Congress have contributed to these problems by developing, through our work in congressional committees and subcommittees, special relationships with particular Federal bureaus and agencies that have given those agencies degrees of autonomy from the top executives of their own Departments. This is bad management, and it has resulted in poor government.

We are fortunate that President Nixon has had the commitment and the courage to propose the reorganization bills before us today. He has acted on good advice: the President's Advisory Council on Executive Organization—the Ash Council—presented careful, thoughtful recommendations. Thus we begin these hearings as a result of this and previous studies, with a good deal of the groundwork done for us. We have before us well-prepared bills and supporting analytical materials. And in the message of the President, we have a clear commitment, echoed by his top officials, to work with us in enacting these bold proposals into law.

We have been invited to work our will—to put our stamp—on these proposals through the congressional process. We now have the opportunity to test them in the laboratory of expert opinion and commentary from all sectors of the society. In these first two days of hearings we will hear from President Nixon's top officials for executive branch management, men who have managed government departments and men who have chaired advisory commissions on the organization of the government—individuals who know first hand the problems of the American presidency. Later, in hearings on the new Departments of Community Development, Natural Resources, Human Resources, and Economic Affairs, we will have ample opportunity to get the views of representatives of all sectors of our society—those affected by specific organizational and managerial changes. In this way we can build the base for refining and perfecting the bills. I confidently expect that we will be able to move ahead quickly in the Senate with at least one of these bills this year.

To me these measures offer the possibility of real improvement in Federal governmental operations. The proposals would strengthen the accountability of the Federal agencies to the chief executive and to Congress. Reorganizing government operations along functional lines and giving departmental secretaries full responsibility for a clearly defined group of activities would strengthen accountability to the President and to Congress.

The Federal government's responsiveness to local needs would be increased. Administrative authority would be decentralized to

the field, giving regional directors of the new departments power to resolve differences and make decisions more quickly and more responsibly. Efficiency would be promoted by grouping functions shared among a number of agencies in one departmental structure, increasing the speed of decision-making, and eliminating duplication.

Fewer decisions would be made by the White House, because grouping related programs in one agency would mean that decisions that formerly involved conflicts among agencies would be resolved within agencies. The President and his staff would be freed for policy and program decisions.

Finally, the proposed reorganization offers the prospect of healthy change in institutions that have over time grown musty and stiff. We have in our Federal bureaucracy experts in all fields. The value of the combined experience and wisdom in the present departments is incalculable. I see reorganization as a chance to use these human resources better, in the context of a new structural framework. The changes we contemplate are fully respectful of the past contributions and the future potential of these valued public servants. As the President put it in his message: "Bad structures defeat good people." We want to use our powers to perfect those defective structures.

Our objective is to make government work better for people—to make sure that government services are actually delivered, that taxpayers' dollars are spent well and most efficiently, that government works as swiftly as possible to help people solve their problems. I hope we can prove to the American people that their government can work effectively to solve the urgent problems that we see every where around us.

Restoring public confidence in government is a central purpose of this legislation. I hope that we can respond positively, creatively, energetically and wisely to achieve this goal in a fully bipartisan context. Good government is a program for all Americans.

STATEMENT OF SENATOR ROTH

I am very gratified that we are today beginning overview hearings on a major program of executive reorganization. I have long advocated that we devote more attention to the improvement of the apparatus by which our Federal government provides its services to the people. The manner in which the Federal administration functions not only affects the cost of government, but it helps determine the impact of national policy on the lives of citizens and on the institutions of our society.

I think that we on this Committee can do a great service if we can illuminate the major failures of the Federal establishment as it now functions. After defining these deficiencies and seeking to understand their long term causes and effects, we can then explore alternative solutions.

The administrative malaise from which we suffer is most evident to me in the system by which domestic grants-in-aid are made available to citizens, private institutions, and state and local governments. Here we have a great array of well intended grants which is so complicated that it is both difficult for applicants to make use of and nearly impossible to co-ordinate. Hopefully reorganization will reduce the number of major agencies involved in dispensing domestic aid so that departmental-level co-ordinators can eliminate a significant portion of the duplication and conflict of purpose now present.

However, I do not think that we should limit our efforts to creating a more rational arrangement of executive agencies and improving the ability of Cabinet secretaries and the President to coordinate their activities. President Nixon's special revenue-sharing bills show a recognition that additional means must be found to increase the effec-

tiveness of the grant system. Grant consolidation, joint funding simplification, better program information, more block grants and improved oversight and evaluation are needed to complement reorganization.

In conclusion, I wish to congratulate the distinguished Chairman of this Committee for allowing us the opportunity to begin our consideration of these four reorganization bills by taking a broad view of this subject.

EXECUTIVE REORGANIZATION PLAN NO. 1

Mr. PERCY. Mr. President, I was gratified at the vote of the Senate Government Operations Committee of 10 to 3 rejecting the motion to disapprove Executive Reorganization Plan No. 1. This strong support for the administration's plan to create the new agency, ACTION, to better coordinate and help direct volunteer activities of the Federal Government is fully supported by the following statements for which I ask unanimous consent for incorporation in the RECORD. The House of Representatives vote of 224 to 131 also indicates overwhelming and gratifying support.

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

PREPARED STATEMENT OF JOHN W. GARDNER,
CHAIRMAN, COMMON CAUSE

The Chairman's request for this testimony came too late for me to present my views at the hearing, so I am substituting this written statement. I am coming before you as an individual citizen, speaking for myself only.

I have long believed that the idea of volunteer service as exemplified in the groups which are the subject of Reorganization Plan No. 1 fills a crucially important need in contemporary society. The fact that each of these groups has had its problem does not diminish my conviction. Anyone who has had experience with volunteer programs in any field knows that they present serious problems of organization and supervision. But the difficulty involved in solving these problems is a small price to pay for the great benefits, both to society and the individual, of such programs. The benefits are too familiar to require detailed exposition here.

In 1967, when I was Secretary of Health, Education, and Welfare, I concluded that it would be useful and productive to bring all of the various volunteer groups under a single roof. The rationale underlying the plan I developed at that time was similar to that underlying Reorganization Plan No. 1. There were also some differences. It was my notion that the various groups might be brought together under a quasi-governmental body such as the National Science Foundation.

My enthusiasm for the idea stemmed partly from my conviction that the volunteer idea can play a far greater role in our national life than it has today. The volunteer corps as they exist today barely scratch the surface of the possibilities. In the total scheme of things today they are very minor ventures, rich in the sentiment of the participants but poor in resources and small in size and scope. There should be a good many more varieties of volunteer corps than there are today. They should enroll far more people than they enroll today. We should learn far more than we know today about how best to conduct such operations. And we should do far more to stimulate volunteer action entirely outside the scope of these federally sponsored groups.

Each of the volunteer corps that have been established to date has performed well in its own way. But each has been totally committed to its own pattern of operation and none has been charged with a really imagi-

native broad-scale exploration and development of the volunteer idea. If the various operations are brought together under one roof they can not only benefit by certain shared services, but the new agency can be charged with aggressive exploration of new patterns of volunteer activities.

As I thought about the possibilities of such an operation in 1967, it seemed to me that one of the most significant contributions of a combined group would be technical assistance to volunteer activities of all sorts—privately as well as publicly sponsored.

In exploring the issues in 1967 it became quickly apparent that the various volunteer corps might resist and fear any attempt to bring them together under a common umbrella. This is natural and predictable. Each corps has a healthy sense of its own identity—and morale built around that sense of identity. But it is not necessarily healthy to assume that a corps once established must remain untouched and sacrosanct forever. Each corps, if it is to continue as a vital, living activity must expect to change and must periodically reassess its mode of operation.

What is important is not that any one of the constituent corps survive in precisely its present form but that the idea of volunteer service in crucial areas of human need survive and flourish and emerge as a truly significant part of our national life. My concern is not that the constituent groups remain untouched and inviolate under the reorganization. My concern is that there will not be enough change and experimentation and testing of new patterns. My concern is that bureaucratization will settle too quickly over the whole activity. My concern is that each constituent corps will develop too early—may already have developed a fixed notion of its own identity and role that will virtually rule out change. Perhaps we should put a maximum life term of 15 years on any one of the constituent corps and provide that it go out of existence at the end of that period. A volunteer activity is particularly dependent upon a certain zest and aliveness that tends to diminish with the years, as good administrators make the operation more efficient, as Government auditors bind it in the mummy wrappings of procedure, and as the early enthusiasts grow complacent about their noble mission.

It is no secret, of course, that many good people whose social objectives I share disagree with me quite violently on this subject.

Part of their problem is the apprehension that is apparently inevitable whenever the bureaucracy faces an organizational change. I carried through many reorganizations when I was Secretary of HEW and most of them evoked a level of anxiety bordering on panic.

A more intellectual issue has been raised by those who argue that a volunteer corps must stay close to its subject matter. I agree, but don't see the need for it to be administered by the same agency that administers the subject matter. Does anyone believe that the Peace Corps would have done better embedded in the State Department of AID? In the long run I believe that the freshness of the volunteer spirit will be best preserved if all the various corps enjoy some degree of separation from the agency dealing with their subject matter.

I would go even further and raise again the possibility of a semiautonomous agency like the National Science Foundation. Some measure of separateness from government itself would be desirable.

Most of the organizational arguments against Reorganization Plan No. 1 are not very cogent. But there is an area of opposition that I take much more seriously and I want to make my concern explicit. I have friends in VISTA who believe that the move is part of a plan to demolish VISTA or reduce its commitment to the tasks of poverty,

or to destroy its community action component. I have said to those friends that if the administration entertains such objectives it will pursue them regardless of Reorganization Plan No. 1. But I want to say more.

At the root of much of the doubt and fear concerning the future of VISTA is widespread misgiving concerning the administration's intentions with respect to poverty. Here is an opportunity for the administration to enhance its credibility in such matters.

To my mind it is of crucial importance not just to maintain but to enlarge the concern of VISTA and the other corps for the problems, including VISTA's role in them. Nothing that I have said in this testimony is intended as aid and comfort to those who would destroy the community action programs. If the reorganization plan goes through a large and articulate constituency concerned with poverty will be watching closely to see whether the effectiveness of VISTA on that issue is being strengthened or undermined. I will be one of those watching.

TELEGRAM SENT BY DR. CHEEK, PRESIDENT,
HOWARD UNIVERSITY

TO: SENATORS MUSKIE, HUMPHREY, IRVIN, McCLELLAN, CHILDS, AND PERCY.

Strongly urge your support for the consolidation of existing volunteer agencies under the proposed new agency, ACTION.

As a member of the National Advisory Council of the Peace Corps and have worked closely with VISTA, I believe the reorganization plan will greatly assist higher education in developing imaginative new ways to involve students and others in positive constructive programs. Much benefit to colleges and universities can be derived from one consolidated program.

TELEGRAM SENT BY CHANCELLOR VARNER,
UNIVERSITY OF NEBRASKA

TO: SENATORS MUSKIE, HUMPHREY, IRVIN, McCLELLAN, CHILDS, AND PERCY.

As Chancellor of a major university deeply concerned about channelling the energies and idealism of our young people to constructive purposes, I urge your support of Reorganization Plan No. 1. Since President Nixon announced this program at the University of Nebraska in January 1971, I have spent much time discussing the potential of this approach with students and faculty on campuses and with Mr. Blatchford. I am convinced that this new approach provides the mechanism so desperately needed to harness the potential this country now has in its young people. With the plan which Mr. Blatchford and his associates are discussing, I am persuaded that this may well provide the crucial new purpose for American higher education to contribute in an important way to some of our more difficult problems. Respectfully urge your support.

PEACE CORPS NEWS,
April 27, 1971.

WASHINGTON, D.C.—Peace Corps Director Joseph Blatchford today announced that the agency has reversed a four-year decline in applications from prospective volunteers.

"The heartening response from Americans of all ages, backgrounds and races demonstrates that the Peace Corps continues to hold a strong appeal for those who want to help their fellow man," Blatchford said, adding:

"For a decade, the Peace Corps has represented the most generous impulses of the American character. The upsurge in applications shows that the volunteer spirit still runs strongly."

Applications for the Peace Corps totaled 19,180 as of the week ending April 23. Last year's total was 19,022—a four-year low. With four months of recruiting still to go—

August completes the recruiting year—applications are expected to reach a total of 26,000. Thus the 1971 total also should exceed the 1969 total of 24,229 applications.

The Peace Corps now has some 8,000 Volunteers and trainees in approximately 60 developing nations.

OFFICE OF ECONOMIC OPPORTUNITY,
May 24, 1971.

HON. CHET HOLIFIELD,
Chairman, Government Operations Committee,
House of Representatives.

DEAR MR. CHAIRMAN: We have been much disturbed by the reports in the paper of a memorandum which purported to be an ACTION personnel list compiled by Peace Corps sources. The conclusions drawn from this are totally misleading. Peace Corps and VISTA as well as representatives of the other agencies involved in the proposed ACTION reorganization have worked closely on all phases of this plan. Since the reorganization is still in the stage of being considered by Congress, all of these actions are by necessity of a tentative nature and no personnel decisions have been made.

The specific list referred to in the Sunday New York Times and the Washington Star articles was based on a report compiled by a talent search officer in the Peace Corps personnel office of personnel in the Peace Corps as well as outsiders who might be qualified for positions in ACTION. It was of a very preliminary nature and had no official standing or currency. If approved by the Congress it would be our intention to request nominations from all agencies in an effort to find the best talent available.

In the task of amalgamating several agencies into ACTION, a working panel has been created, including representatives of each of the designated agencies. The task force is headed by Chris Mould, Director of the Office of Voluntary Action. Representing VISTA were Ernie Russell, ex-Deputy of VISTA and Acting Associate Director for OEO Administration and Ed Dela Rosa, Acting Deputy Director, VISTA. Representing Peace Corps were John Donohue and Kevin Lowther; John Kelly (Foster Grandparents and RSVP) HEW; Richard Sweeney (SCORE and ACE) SBA; Eric Biddle, Jr., OVA; Ann Macaluso, OMB; and, Sheldon Butts (VISTA) AFGE Local 2677. The task force is now being expanded to include the views of VISTA Volunteers and other interested parties.

In addition, in late April it was agreed that both Peace Corps and VISTA would assign a senior officer to respond to requests for information on personnel and other related administrative matters could be channelled. Dr. James Connor, Director of Planning and Programming Analysis was assigned to meet with John Donohue, Director of Administration and Finance of the Peace Corps. Mr. Donohue requested a list of all VISTA personnel; however, it wasn't until May 17 that resumes, including some detail on senior personnel, were received for VISTA headquarters personnel. The data on key regional personnel were not received until May 20. The personnel list from the Office of Voluntary Action in HUD was also received the week of May 17. Personnel lists from HEW (Foster Grandparents and RSVP) and SBA (SCORE and ACE) have not yet been received although requested.

It is regrettable that a document such as the one reported in the newspaper article can be the cause of concern. It has no official sanction. No personnel decisions have been made regarding ACTION. None will be made until after June 8 and until all available personnel have been considered and reviewed in an effort to locate the best people available.

FRANK CARLUCCI,
Director.
JOSEPH H. BLATCHFORD,
Director, Peace Corps.

QUORUM CALL

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

THE MILITARY SELECTIVE SERVICE ACT

The PRESIDENT pro tempore. Under the order previously entered, the Chair now lays before the Senate the unfinished business which the clerk will state.

The assistant legislative clerk read as follows:

H.R. 6531, an act to amend the Military Selective Service Act of 1967; to increase military pay; to authorize military active duty strengths for fiscal year 1972; and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDENT pro tempore. Under the order previously entered, the Senate will proceed to vote at 1 p.m. today on amendment No. 105, to be offered by the Senator from Wisconsin (Mr. NELSON), prohibiting the sending of draftees to Vietnam after December 31, 1971.

Time is now under control. Who yields time?

If the Senator from Wisconsin will send his amendment to the desk the clerk will report it.

The assistant legislative clerk read the amendment as follows:

Sec. . After December 31, 1971, no person inducted into the Armed Forces of the United States under the Military Selective Service Act of 1967, or any other conscription Act, may be assigned to a combat role in Southeast Asia, unless he volunteers for such assignment or has voluntarily reenlisted in the Armed Forces.

The PRESIDING OFFICER (Mr. CHILES). Who yields time?

Mr. NELSON. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 5 minutes.

Mr. NELSON. Mr. President, the amendment provides that after December 31, 1971, draftees may not be assigned to combat roles in Vietnam.

In order that Senators may be clear as to the phrase "may be assigned" in the amendment, let me say that it is intended to apply only to new assignments after the effective date. It does not mean that draftees already in combat roles on that day would have to be reassigned. They would remain until their tours expire.

I would have preferred to have it apply to all draftees in military occupational specialties in combat arms on that date and I would have preferred that it required their assignment from that role to another one.

However, I do not think it is feasible for the military to manage that kind of withdrawal affecting those troops who

are already in military occupational specialties in combat arms because it would be disruptive to the units. Therefore, it applies only to the assignment of draftees to combat roles after December 31, 1971.

Mr. President, this amendment is cosponsored by Senators HUMPHREY, PROXMIRE, CRANSTON, and HUGHES. Many issues about the draft are being ably discussed in this debate. One is how we should recruit a peacetime Army. Since 1964, I have been urging the volunteer army concept. There are issues of draft reform also, but these remarks will deal with the draft as it pertains to the war in Vietnam.

The central issue of the draft is the issue of Vietnam. The draft feeds the war. The war becomes the argument for continuing the draft.

Most of our country has come to regard the war as a mistake. If we had it to do all over again we would not become involved in a land war in Southeast Asia. Both of our political parties are for withdrawal. The question is how fast and in what way. Our political leaders are floundering around in search of a face-saving pretext to get out. Yet we go on drafting young men for combat, giving them the alternative of going to jail. No young man should be required to stake his life to save face for the political leaders who unwisely blundered into this war. I would not ask my own son or anyone else to do that.

Draftees have borne the heaviest burden of the war. They have had the worst of the combat. They have suffered an inordinate share of the casualties.

From the beginning of 1961 through March 13, 1971, 44,676 American servicemen were killed in hostile action in Vietnam and 296,034 were wounded. The combat deaths were spread among the services as follows:

| | |
|--------------------|--------|
| Army | 29,524 |
| Navy | 1,396 |
| Marine Corps | 12,912 |
| Air Force | 871 |

Now look at the Army combat death figures covering almost the same period from January 1, 1961, through December 31, 1970:

| | Total | Officers | Enlisted men |
|------------------------|--------|----------|--------------|
| Regular Army..... | 12,304 | 610 | 11,694 |
| Reserve..... | 2,447 | 2,393 | 54 |
| Selective Service..... | 14,331 | 7 | 14,324 |
| National Guard..... | 68 | 8 | 60 |
| Total..... | 29,150 | 3,018 | 26,132 |

The figures show that the largest block of combat deaths is among Selective Service personnel, or draftees. They are 49 percent of the total.

The PRESIDING OFFICER (Mr. GAMBRELL). The time of the Senator from Wisconsin has expired.

Mr. NELSON. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 5 additional minutes.

Mr. NELSON. Mr. President, according to other Defense Department figures, at the end of 1970, draftees were 31 percent of the Army enlisted ranks worldwide,

They were 37 percent of Army enlisted ranks in Vietnam. But during 1970 they suffered 57 percent of the combat deaths among the Army enlisted rank in Vietnam and 57 percent of the wounded.

There are a number of reasons that the burden falls so heavily on draftees.

First, throughout the war, the draft has been used mainly to supply manpower for the Army. Currently all draftees go into the Army.

Second, within the Army a process of natural selection herds the draftees toward combat duty in Vietnam. Men who voluntarily enlist in the Army for three years may choose their line of training and assignment. Most choose technical and vocational specialties, for example medicine, electronics or automotive mechanics. Few pick what the Army calls the combat arms—Armor, Infantry, and Artillery. In fact, only about 4 percent of the Army's requirement for combat arm's soldiers worldwide is being filled by men who volunteered specifically for that duty.

On December 1, 1971, the U.S. troop ceiling in Vietnam will be 184,000 according to the President's announcement. Assuming that past ratios are followed, about three-fourths of these, or 138,000, will be Army personnel, of which about 120,000 would be enlisted men.

Assuming again that past ratios are followed, about one-quarter of the 120,000, or 30,000, would be hard core combat soldiers—those with military occupational specialties in Infantry, Armor, or Artillery. Another 30,000 would be in combat units but would have other job descriptions, for example as cooks, medics, combat engineers, and transportation people. Some of these would be in secure base areas. Some, because they would be in forward units likely to engage in combat, would be covered by this amendment. The total number to which the amendment would apply would be between 30,000 and 60,000.

It is reasonable to expect that the Army can supply this number of men out of its nondraftee strength of 700,000 worldwide. If not, then something is drastically wrong with the Army. Furthermore, Ellsworth Bunker, our ambassador to South Vietnam has declared that the overall troop level will be down to 100,000 by next May 1. Then the number of hard core combat troops would be fewer than 20,000.

The Army estimates that it will need 2,800 replacements in the combat arms in Vietnam in July 1971. They also estimate that by December 1, it will be between 1,700 and 1,800. If 2,800 were taken as an average replacement rate, the requirement for a whole year would be 33,600 combat arms replacements for Vietnam. Surely that number could be supplied from the professional Regular Army and volunteers. Actually, the yearly replacement rate will be less because our forces in Vietnam are being reduced.

One more statistic is worthy of note. The Army does have volunteers for Vietnam. During calendar year 1970, 38,834 Army enlisted men and 3,425 officers volunteered to go to Vietnam and were sent there. Of course, these were not confined to the combat arms. But the figure is sig-

nificant in showing that volunteers are available for Vietnam duty.

What we are dealing with here is an institutionalized personnel system in which the Army does not look for volunteers from among its professional soldiers. It does not have to look because it has an unlimited supply of draftees and it is easier to use them. Now is the time to end that system.

Some methods of increasing the number of available combat soldiers for Vietnam may not be desirable. For example, it may not be wise to lengthen the 1-year tour of duty in Vietnam or to reduce the time between Vietnam tours, now generally 2 years. But there are many other ways. First, the Army could make a much stronger effort than it ever has in the past to recruit these combat forces from its professional ranks stationed in the United States and around the world. It could hire more civilians in order to replace uniformed soldiers who are now acting as cooks and chauffeurs at military bases in the United States and elsewhere where there is no war.

The U.S. Marine Corps could take over more of the combat role in Vietnam from the Army. In January of this year there were some 25,000 Marines in Vietnam, of which only about 1,400 were draftees. The Marine Corps is no longer taking in any draftees. As the tours of duty of draftees expire, the Marine Corps is reverting to what it traditionally has always wanted to be—an all-volunteer force. The Marine Corps has 200,000 men world-wide.

Finally, in order to take draftees out of combat, the administration could accelerate its troop withdrawal schedule.

Another important point is that the amendment I have offered does not say we could not send any draftees to Vietnam. It only says they could not be assigned to a combat role there. This means the combat arms—armor, infantry, and artillery. It also means any other highly hazardous combat assignment. Furthermore, the amendment would only become effective after December 31, 1971. This will give the Army some time to adjust to a totally new policy of no longer relying on draftees for the worst combat jobs. Putting the date in December also makes the Army's adjustment easier because the troop level in Vietnam will be 100,000 less than now. December 31, 1971 is also the effective date of the McGovern-Hatfield bill to end the war. I have supported that bill and will vote for it. But if we still have combat troops in Vietnam at the end of December, at least they should not be draftees. This amendment would at least accomplish that much.

THE PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I yield myself 15 minutes.

THE PRESIDING OFFICER. The Senator is recognized for 15 minutes.

Mr. STENNIS. Mr. President, I ask unanimous consent that I may be permitted to yield to the Senator from Texas, a member of the committee, if he so desires, and that I may resume my speech thereafter without losing my right to the floor.

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

Mr. STENNIS. Mr. President, over the

years I have known the Senator from Wisconsin and regarded him very favorably indeed, including his ideas on the subject of the war and including the spirit and the motives behind this amendment. There is no one here whom I respect any higher than I do the Senator from Wisconsin.

I appreciate, too, the very outstanding services the Senator has rendered as a Senator from Wisconsin and as a Member of the Senate in many fields. He has made a very positive contribution. He was a forerunner in the environmental problem and the Environmental Control Agency that has now been adopted. That has become a nationwide policy and a program with millions of dollars behind it.

My criticism of his amendment is based solely on the effects I think it would have and not on the Senator or his motives.

I want to point out for the Senate that no one relishes the idea or likes to draft these men. No one wants to reenact this law. No Member of the Senate wants these men to be called on to go in the services against their wishes, and especially to go to Vietnam. All of us want the war to end.

I think we are all doing, as we see it, what we think we should do to try to bring the war to an end—that is, in keeping with our Nation's future security primarily, as well as our obligations.

Let us keep those things clear. We are not divided on these matters. However, the fact remains that we are in the war and we cannot abruptly cut and run, though there is no disagreement or little disagreement about this in this Chamber. If we are not going to do that, then there are some things that we must do that we do not wish to do or relish doing as Members of the Senate. And that means that we will have to call on various citizens of our Nation to perform a duty that is directly connected with and, we think, necessary for the security of our Nation, not only now, but especially in the decades ahead.

So, I approach this amendment in that vein and with all deference again to the Senator from Wisconsin.

I do not see how Members of the Senate who really support the so-called volunteer Armed Force for some unforeseeable time in the future can possibly support this amendment. Why do I say that? It is because this amendment tells these young men, "By all means stay away from that volunteer role. Stay away from that. Don't get into that role. Just go the induction route and be inducted into the services, and you, therefore, stay out of combat."

I do not think it is an oversimplification at all, not at all, to say that that is the meaning of the amendment and that is the way it will work, with so few exceptions that we could count them, though not on the fingers of one's hand. However, there will not be a great number who will go this volunteer road.

If this Nelson amendment were enacted, it would greatly increase draft calls at precisely the time when we are trying to reduce them. This would run directly counter to the President's objective of achieving an all-volunteer force. Defense Department records show that

at least half of all enlistees would not voluntarily enlist without the pressure of the draft. Undoubtedly, the hope of avoiding ground combat duty in Vietnam encourages young men to volunteer rather than be drafted.

Should young men know that being drafted is the surest way to avoid serving in Vietnam, they will simply wait to be drafted and will be far less inclined to enlist for service in the Army and in the other services. Enactment of this proposal would thus greatly reduce volunteers and increase the number of men who would have to be drafted at the same time we are trying to make some sort of progress toward all-volunteer Armed Forces.

Mr. President, to return briefly to a matter that I mentioned a minute ago: This amendment uses the term "combat role." Over the years, it has been most difficult to say just what is a combat area or just what is a combat role. That has been difficult in many wars, but particularly in this one. It has been very hard to say where the danger zone was, and who would get fired on or who would not get fired on.

We remember the many rockets that were discharged far behind the lines into our military men's sleeping quarters at night, killing many of them. We remember the rocket fire in many of the cities, including Saigon. There have been many times when it has been more dangerous to be in or near some of those cities than it was to be in the so-called front line.

Here is the convincing evidence that this does apply: Hostile fire pay, which is paid under a special statute that we have had, as I recall, for many years, has been applied to all those who are in service in Vietnam. That shows that Vietnam is all considered, to a degree, a combat zone. So we might as well meet facts as they are: The whole area over there that is in any way connected with the war is, for practical purposes, a combat zone, and this amendment would quickly apply to it. No one could be in a unit, then, that has anything to do in all that area, without having this amendment apply, and that means it would take out all those who had been drafted and, as I have said, the prospective volunteers would all become draftees very rapidly.

So, even though we hope we will eventually reach a point where Vietnam replacement requirements have been reduced sufficiently so that we could send only volunteers. Even then, however, it would be most unwise to adopt formally a policy of excluding draftees from serving in Vietnam or other areas of armed conflict unless they volunteer for such service. If we took such a course for Vietnam today, tomorrow's draftees might expect similar treatment should the United States become involved in a shooting war elsewhere. I believe it is fair to say that it would be almost impossible to administer effective Armed Forces in this way. There is real danger in creating a class of men in uniform which, by being exempt from hazardous and unpleasant duty today, might expect to be equally exempt in the future.

Mr. President, it is impossible to hold a military commander responsible for

anything that happens out on the field, or for the conduct of the war—I am talking about from General Abrams on down—if he is going to be hindered and restricted and have his hands tied as this amendment would do. That is the major, controlling reason why we have never been able to adopt a policy of this kind. Even though proposals of this nature have come up many times before in previous wars as well as this one, the final impartial judgment of an overwhelming majority of those who have to pass on it has forced them to vote against such a position. And I predict that that will be the outcome, regardless of good intentions, regarding this amendment. It just cannot be carried out with any idea of success in any kind of military activity, and we cannot possibly hold the President of the United States responsible, General Abrams responsible, Secretary Laird responsible, or anyone else connected with the conduct of this war responsible, if we are going to have an amendment of this kind. It will not fit anywhere, I respectfully say, except in the wishes of our membership here as well as the people.

Units in the Army are composed of men with widely different backgrounds who have entered the service through different routes. An Army unit would be rendered completely inoperative, if, because of legislation, each man's record had to be reviewed before that unit was sent somewhere in an emergency.

Some men would have to be pulled out. The Senator says his amendment does not apply to those who are already there, and I accept that, for the time being, but I am talking about units, now, that would have to be put in action under the operative terms of this amendment.

Some men would have to be pulled out of the unit, others would be moved in, many men would have to be given jobs for which they were not trained, and so forth. This effect could easily spread to the other services if enlistments fell off—as they would be sure to do under this amendment—and the other services had to begin to use draftees.

That is another almost certain result, and it is a certain result of the operation of this amendment for any length of time.

As I have said on this floor many times since this debate started, I repeat now for emphasis: The absolute written record, compiled over the years as this has unfolded, shows that in the Air Force, some 47 percent of the first-term enlisted men who manned our ICBM missiles, down in the wells, so to speak—47 percent of those men, or around that number, are draft-induced. The same is true for our carriers in the Mediterranean, in the Pacific, and everywhere. They call the Navy an all-volunteer service, but the record shows that around 42 percent of those first-term men were there because they were induced by the draft. And one can go on, even, to the Marine Corps. This idea of exemption is going to kill real voluntarism, and will upset any kind of a military unit in any of the services where they try to be fair.

Another important reason to oppose this amendment is that it would prevent

us from meeting our manpower requirements in Vietnam. This would be true notwithstanding the fact that our forces there would have been reduced and we would only be furnishing replacements to support these lower levels of forces.

We read about all the withdrawals, and the President has a program of withdrawals per month, but the fact is that this replacement goes on all the time. We do not see that in the press, but there are men being sent over every month, and men coming back just because of this practice of rotation every 12 months.

Personnel replacement requirements for Vietnam and, indeed for any military force, are expressed in terms of specific skills such as gunner, cook, supply technician, and infantrymen. Our needs for the ground combat skills are particularly difficult to meet through voluntary means. For example, only 4 percent of Army combat skill requirements are met by enlistees who volunteer for that duty. In view of this, ground combat requirements must be met largely on a nonvoluntary basis. Current Army experience indicates that if draftees were excluded from involuntary assignment to Vietnam, the Army would not be able to meet its monthly replacement requirements during 1972.

I state that after the most careful and exhaustive examination of the record, the estimates, and the recorded experience. We would not be able to meet these monthly replacement requirements during 1972, in spite of all the withdrawals and in spite of the continued success—and these figures assume that the withdrawal will continue at its present rate.

The principal reason for this anticipated failure to meet General Abram's replacement requirements is that large numbers of men who currently enlist would not do so as soon as it became apparent they could avoid Vietnam by waiting to be drafted. This crippling shortage of Vietnam replacements could only be alleviated by a combination of undesirable alternatives. These would include:

Retraining nondraftees in those skills short in Vietnam. This expensive process would create Army-wide skill maldistributions and thus seriously impair combat readiness in Army units in NATO, Korea, and the United States.

Extending the tour in Vietnam from 12 to 18 months. This would create a very serious morale problem. Enlistments and reenlistments would be adversely affected.

Reducing the time between Vietnam tours. This would further aggravate the reenlistment problem caused by repeated Vietnam tours. Enlistments would also be adversely affected.

Even should we invoke all these alternatives there is serious doubt that we would fully meet the Vietnam replacement requirements.

As I have said, Mr. President, I emphasize that these are studied conclusions, not just by someone in the Pentagon but on facts obtained from the record by our staff, many of whom are highly competent in this field, and by some

members of the committee in going through these records.

These are very serious implications. Enactment of this measure would not only create havoc in our plan for an orderly withdrawal from Vietnam. It would also increase draft calls when we are trying to decrease them and, would also seriously degrade national security by both the personnel turbulence and the precedent it would create.

If we are going to have a strong, effective deterrent or military force to assure our national security, if we really mean what we say when we say that is what we need, and ask the taxpayers to pay for it—so long as it is within reason, I think they are willing to pay for it—we should forget matters such as this amendment, forget writing them into law, because we could not have the kind of security that is needed, especially with a war still going on. We just could not have security if we were to have a policy such as this amendment would write into the law. In sum, I do not believe that this amendment even presents a close case, and I hope the Senate will reject it firmly and with a very decisive vote.

Mr. President, I have completed my remarks for the time being, and I yield the floor.

(The following colloquy, which occurred during the address of Mr. STENNIS, is printed in the RECORD at this point by unanimous consent.)

Mr. BENTSEN. Mr. President, I rise to speak in opposition to the pending amendment to H.R. 6531. The amendment, if agreed to, as I understand it, would prohibit the service in Vietnam after December 31, 1971, of those who had been drafted into the service, unless they volunteer for that service.

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

Mr. BENTSEN. I yield for a question.

Mr. NELSON. I understood the Senator to say that the amendment would prohibit draftees from serving in Vietnam after December 31.

Mr. BENTSEN. Unless they volunteered for such service.

Mr. NELSON. May I correct the Senator so that he would be addressing himself to what the amendment would do. The amendment would not prohibit draftees from being sent to Vietnam or or serving in Vietnam. The amendment would prohibit draftees from being assigned to combat roles with a military occupational specialty in combat arms after December 31. It would not require that those who are in an MOS combat arms unit as of that date would have to be reassigned. They would finish their tour. So it is a narrow question.

Mr. BENTSEN. I appreciate the clarification the Senator has made.

Mr. STENNIS. Mr. President, will the Senator yield on that point?

Mr. BENTSEN. I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I point out to the Senator from Wisconsin that this matter of assignment to a "combat role" used in the amendment is a very vague and uncertain term. I say that with all respect. I point out that what is a combat role and a combat area in Viet-

nam is so unpredictable and changeable, that the law authorizes hostile fire pay to be paid to everyone over there. The city of Saigon at night is disrupted by fire and can be more dangerous than a military fire zone.

I point that out to show how this would apply.

Mr. BENTSEN. I thank the distinguished Senator from Mississippi.

I understand how the changing roles come about. Very recently I was in Vietnam. I went there in a noncombatant role and fully expected to fill that kind of role. We were making a landing at Khe Sanh, which was the jumping off place in the intervention in Laos. Our plane was beginning to come under fire, so I have sympathy for the changing role.

I listened with considerable interest to this debate on the amendment of the distinguished Senator from Wisconsin. On first reaction, the amendment has great emotional appeal because, in effect, it says, "You will not have to serve in an unpopular war, a war that is winding down."

It says, "You will not have to be the last man to die in this kind of war." No one wants to be the last man to die in a war's closing days, and fill that kind of category.

Under this amendment, Mr. President, you can wear your country's uniform, speak of your service to the flag, and at the same time have yourself an iron-clad guarantee that you will not have to listen to one shot fired in anger in Vietnam.

I think the amendment has appeal to every mother and every father and every draft-aged young man. But what we are striving for here is equity. What is right? Is it fair and is it workable? I say unquestionably it is not.

Let us examine some of the effects of this amendment. First, and this should be especially important to those who hope to be able to achieve an all-volunteer army, at the very time we are trying to bring about inducements in the bill, to encourage enlistments and volunteers, this amendment would bring about a substantial reduction in volunteers, because prospective volunteers who wanted to choose their theater, who might want to go to Germany and think they would avoid combat, could get themselves a guarantee of being noncombatant. All they would have to do would be to hang back and not volunteer, and wait to be drafted. The Army estimates this would cut approximately 50 percent or more of their volunteers. I think that is a very low and conservative estimate, and certainly the fallout would hit other services. It would very substantially reduce volunteers, and at the very time we are trying to strengthen the National Guard and the Reserve system, and make them more viable and stronger. There would be a substantial reduction in enlistments and volunteers who might go into the Reserve service.

The only way to overcome these shortages would be to increase draft calls, and that is a most undesirable alternative. By this legislative process I believe we jeopardize our progress toward an all-volunteer force while simultaneously tak-

ing other legislative actions to reduce increased enlistments.

This amendment, in effect, forces us to put a heavy brake on the progress which we might be able to make toward an all-volunteer army.

Then, there is another major point involved. This proposal seems especially imprudent when we consider the implications of deliberately establishing a class of men in uniform who would not have to serve in a combat area. I think it is reasonable to assume that if we were to take this action in Vietnam, should the United States become involved in another unpopular conflict, be it Berlin, the Middle East, or in any other part of the world, it would be expected we would come before Congress and pass such an amendment to exclude other men from the conflict.

It is even conceivable that by deliberately legislating the Army into two classes—those who have to serve under dangerous and unpopular conditions, and those who do not—we may be creating conditions where tomorrow's draftee might expect to be excused from unpopular service in war or even in civil emergencies.

In this bill we have provision for conscientious objectors, who do not have to serve in combat. I believe in that. That was a carefully proposed amendment to this legislation done by committee action, carefully thought out and drafted. But that is deeply ingrained in the history of our country because of the religious beliefs of these men. This, however, is no such thing. This deals with men who agree with us that this is a war we are winding down, an unpopular war that has divided our Nation; but they are not going to stay there or be in the combat areas to protect withdrawals of the rest of our troops. I feel that is a serious mistake.

We have men in the armed services from different walks of life. Some enlisted because they wanted to choose a service, and some enlisted because they had a particular skill they wanted to exercise, and some of them who volunteer, because they want to avoid being drafted. They are molded together in a military unit, each man contributing to the mission, particularly if it is a combat mission.

The military services make no distinction between the draftee and the volunteer. All of them are assigned on the basis of the needs of the service, the basis of the needs of the unit, the basis of the skill of the man, and, to the degree that they can, the desires of that man.

Now do we want, by law, to create a special favored class of serviceman not to be used in a combat role without his consent? Do we want to discriminate against the volunteer, the man who enlists to try to serve his country? Are we going to say to him that he has no such prerogative?

I do not believe we can overemphasize the real danger to national security in creating a class of privileged individuals in our Armed Forces. This process could take any of a number of extreme turnings, and I think it could contribute to

seriously hurting our services as effective fighting units.

There is yet another dimension to this amendment that I have hardly heard mentioned at all. Advocates of this proposal tend to ignore the fact that we have thousands and thousands of career officers and men who have been to Vietnam. These are the men who provide the leadership, who provide the expertise to the man who gives first-time service in Vietnam. They bring the technical skill, and in some of these services, all of the careerists with certain skills have been to Vietnam at least once, many twice, and some have been or are ready to go for a third tour.

These professionals will go back again and again if we request them, and they will perform their duty in a manner that all of us can admire. But, seriously now, can we expect their morale to stay high, can we expect these careerists to continue to go back in sizable numbers, can we expect them to continue to reenlist, to volunteer, while others can avoid combat just by waiting for the draft? I think the morale problems that would be created amongst dedicated career soldiers would be very difficult to estimate.

All through this bill there are certain remnants of the volunteer army plan, and it is a plan I never have subscribed to, because I believe as a practical matter it will not work to supply as many men as we need in the services.

I point out that I voted for a 4-year extension of Selective Service in committee, which would give everyone who believes in the volunteer concept an opportunity to see how it would work.

But apart from all those things, this amendment, if enacted into law, would absolutely kill the volunteer concept for a volunteer army, a volunteer air force, and other branches.

I believe that the only reasonable assessment would be that the retention of these men, the careerists who would reenlist and volunteer, would be substantially reduced, and I think again that that really hits at the all-volunteer Army.

These are some of the serious implications for the action that we are now discussing. I have no doubt that this amendment is unwise in light of the uncertainties of the situation in Vietnam, in light of our desire to increase enlistments in the services at this time, in light of our objective to reduce draft calls, the disadvantages of establishing a dangerous precedent in the use of our Armed Forces, and the resulting morale problems that would result from that. All of these things together lead me to strongly urge defeat of this amendment.

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

Mr. NELSON. Mr. President, I wonder if the Senator would allow me to reply at this time?

Mr. STENNIS. On the Senator's time.

Mr. NELSON. On my time. Mr. President, I yield myself whatever time I need.

I would like to call to the attention of the distinguished Senator from Texas the grave disparities in the treatment of the draftee versus the Regular Army.

The Senator made the point that volunteers and draftees are treated alike.

How do you explain this dramatic and astonishing statistic: Of all the enlisted men, worldwide, in the military service of the United States in the Army, 31 percent are draftees; but 37 percent of the soldiers in Vietnam are draftees. Fifty-seven percent of the wounded and 57 percent of the dead are draftees?

If the draftees are being treated equally with the volunteers, why is this percentage of dead and wounded for the draftees so much higher than it is for the volunteers in the Regular Army?

Now, much of what the Senator said about this amendment would be perfectly true under other circumstances. I would not offer an amendment like this if this were a declared war. This war was never declared. If we could ever get to court on it, it would be declared an unconstitutional war. It is one of the most illegal wars we were ever involved in. We are dealing with a situation which has never before occurred in the history of the country.

This is a situation in which the youth of America never, never accepted this war as involving the vital interests of America, and it never did. I never accepted it as involving the vital interests of America.

Six years ago I stood on this floor with Senator Morse, who is not here any more, and Senator Gruening, and the three of us voted against the request of President Johnson for \$700 million to start a ground war in Vietnam. I predicted that far back that you could not win it with a million men and there was no vital interest of America involved.

Now everybody in this country has rejected the war. You know it and I know it. The test question which you could put to President Johnson; you could put to President Nixon; you could put it to every Member of Congress; you could walk the streets of America and put it to every citizen of this country, "If you could turn the clock back to March 1965, would you start a ground war in Vietnam?"

The answer from President Johnson would be "No." The answer from President Nixon, who endorsed the war in 1965, 1967, and 1968, would be "No." The vote on this floor would not be the three votes against the ground troops, but 100 votes, if they were all present.

So now we have a situation in which we have said to the youth of America, "This is a war which does not involve the vital interests of this country, and we now know that it never did. It has not been worth the sacrifice of 50,000 deaths; the sacrifice of 300,000 wounded; the sacrifice of \$150 billion in treasure; the disillusionment of the youth of America; the loss of the confidence of the people of this country, in the decisionmaking by the authorities.

Every young man in America knows it. He knows that what we are doing—and it is the truth of the matter—is filibustering, seeking a pretext to get out of Vietnam and save face; get out. That is all there is to it.

So we are saying to a young man, "While we try to devise a pretext to get

out to save the face of the political leaders of this country, you go on over there and risk your life." I would not ask my son to do that, and I would not ask anybody else's son to do it, either.

(This marks the end of the immediately preceding colloquy, which occurred during the address of Mr. STENNIS and which was ordered to be printed in the RECORD at this point by unanimous consent.)

Mr. NELSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Seventy-three minutes.

Mr. NELSON. I yield myself 5 minutes.

Mr. President, the argument made by the distinguished Senator from Mississippi carries with it, it seems to me, some very grave implications. The argument is that if we do not continue to assign draftees to combat roles after December 31, 1971, it will not be possible for the Army to maintain these combat troops in the field.

Let us see what that means. The argument is that they will need approximately 1,700 replacements in combat arms in December. Mr. Bunker said a week ago that he calculated that the Army could be down to 100,000 by May. That would mean that we would need approximately 900 soldiers for replacement in combat arms starting in May.

Let us see what that means. Annually, that is 10,600 men. So what the distinguished Senator is saying is that out of 1 million enlisted men in America, out of the 700,000 regulars, out of the 200,000 Marines—America's fighting Marines—all volunteers, we cannot get 10,600 of them to serve as replacements in combat between May 1972 and May 1973; and that out of these 700,000 in the Regular Army and 200,000 in the Marines, we cannot get 20,000 to serve as replacements in the entire 2-year period.

What does that tell us? If that is the truth, that tells us that even the regular soldiers and the fighting Marines have rejected the war. I think they probably have.

That means we ought to get out of there, and get out fast. But, no, we are going to take college kids who have never accepted the war on principle, who have turned out to be right—right—on the war, and say, "Oh, no; we'll draft you and put you in combat." Not out of the 200,000 Marines, not out of the 700,000 regular Army enlisted men. No, the draftees.

We have reached a sad state when we cannot, as of May of next year, get 900 men a month for replacements to go into the combat arms in Vietnam. I do not believe it; but if that is true, we should not draft people who object to the war, in the first place—and always have—and stick them in that role, so that 57 percent of the wounded and the dead are enlisted men. Yet, they represent only 31 percent of all the enlisted men in the Army. It is inequitable, it is immoral, and we should stop it.

Mr. President, I yield 15 minutes to the Senator from California.

Mr. TUNNEY. I thank the Senator from Wisconsin for yielding.

Mr. President, I send an amendment to the desk, as a perfecting amendment to the amendment of the Senator from Wisconsin, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Beginning with "to a combat role" in line 4 of the amendment, strike out all down through line 6, and insert in lieu thereof the following: "to duty in any combat area outside the United States, unless (1) such person volunteers for assignment to duty in such combat area, (2) such person has reenlisted in the Armed Forces subsequent to his induction under any such Act, or (3) the Congress by law enacted after the date of enactment of this section authorizes persons inducted into the Armed Forces under any such Act to be assigned to duty in any such area."

The PRESIDING OFFICER. The amendment has been stated, but it cannot be offered until all the time of the Senator from Wisconsin either has been used or has been yielded back.

Mr. NELSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. GAMBRELL). The Senator from Wisconsin will state it.

Mr. NELSON. Is the Chair saying that this amendment cannot be called up and voted on prior to the expiration of the time on my amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. NELSON. The yeas and nays have not been ordered on my amendment, have they?

The PRESIDING OFFICER. The Senator is correct.

Mr. NELSON. Is the amendment of the Senator from California (Mr. TUNNEY) an amendment to my amendment or an amendment to the Draft Act?

The PRESIDING OFFICER. It is a perfecting amendment to the amendment of the Senator from Wisconsin.

Mr. NELSON. Are we to understand, then, that it would have to be voted upon after the expiration of all time on my amendment?

The PRESIDING OFFICER. Except by unanimous consent, that would be the case.

Mr. STENNIS. Mr. President, will the Senator from Wisconsin yield to me?

Mr. NELSON. I yield.

Mr. STENNIS. The Senator from Wisconsin and I are prepared to yield time to the Senator from California within our overall allotted time to handle his amendment. I think that we are agreed on that time and we might as well ask unanimous consent to proceed here to a vote on it.

Mr. NELSON. I agree with that.

Mr. STENNIS. Then we can resume argument on the Nelson argument.

Mr. NELSON. Is the Senator saying that we should ask unanimous consent for a definition of the time allotted to the Senator from California and the Senator from Mississippi and that there will be a vote thereon?

Mr. TUNNEY. That is my understanding.

Mr. STENNIS. My understanding of the situation now is that Senators are expecting a vote here at 1 o'clock. So, in any event, we might be disappointed with

the attendance. In view of that, perhaps it would be better to argue this matter and then reserve a little time and argue it again before we close the time—argue both of them and have both votes.

Mr. NELSON. I would like to reserve some time for myself on my amendment shortly before 1 o'clock.

Mr. STENNIS. Yes.

Mr. NELSON. Perhaps we could vote at 12:30 or something like that.

Mr. STENNIS. I do not know whether it would be possible to work out anything on that just now. Suppose we let debate continue.

Mr. NELSON. Mr. President, how much time has the distinguished Senator from California got left on the time I yielded to him?

The PRESIDING OFFICER (Mr. GAMBRELL). I believe an error has been made in the ruling. Let the Chair read this provision of the unanimous-consent agreement:

The time on any other amendment than the amendments enumerated above will be limited to 1 hour, coming within the period allotted, that time to be equally divided between the mover of the amendment and the Senator from Mississippi (Mr. STENNIS).

The Chair understands that the proposed Tunney amendment would come under that provision, and that under the order the time will be limited to 1 hour to be equally divided between the Senator from California and the Senator from Mississippi.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Michigan will state it.

Mr. GRIFFIN. The time of the vote would come at the conclusion of the hour, is that correct?

The PRESIDING OFFICER. It would.

Mr. TUNNEY. I can assure the Senator from Mississippi that I do not need one-half hour.

Mr. STENNIS. I think the 15 minutes' time yielded by the Senator from Wisconsin is proper and I shall not take all the 15 minutes on my side. We can decide later when to vote.

The PRESIDING OFFICER (Mr. GAMBRELL). The Senator from California (Mr. TUNNEY) is now recognized. His amendment is now pending.

Mr. TUNNEY. I thank the Chair.

First of all, I should like to congratulate the distinguished Senator from Wisconsin (Mr. NELSON) on his amendment, which I think states the feeling of many of us, that draftees have borne an unfair burden of the war in Vietnam.

It has been clear for some time that the best way to stay out of combat is to enlist in the Army and get the MOS which guaranteed that one did not go to the firing line.

Although there are many other reasons I believe that one of the reasons that the young people of this country have been so "turned off" by this war, and why they feel it is basically an unfair representation of power, is that they who have proved to be most disenchanted with the war are the ones who are called to give the most both physically as well as spiritually in the line of combat.

Mr. President, my perfecting amendment is simple. In my opinion, it re-establishes congressional prerogatives; namely, that Congress will play an important role in determining when our troops go into battle, and when the United States goes to war. It simply states that no draftee can be assigned to duty in any combat area outside the United States unless such person volunteers, or unless such person has reenlisted, or unless Congress authorizes that he be sent to a combat area.

There is much precedent for circumscribing the use of draftees in various parts of the world. In fact, in 1940, in section 3(e) of the Selective Training and Service Act, there was provided:

Persons inducted into the land forces of the United States under this Act shall not be employed beyond the limits of the Western Hemisphere except in the Territories and possessions of the United States, including the Philippine Islands.

That was a very clear circumscription of where, when, and how draftees could be used in any kind of combat role.

It did not take long for Congress to suspend that provision after Pearl Harbor, when it was determined by the President and the Congress that draftees would be needed in other parts of the world beyond the Western Hemisphere and the territories and possessions of the United States. On December 13, 1941, this provision was suspended "during the existence of any war in which the United States is engaged and during the 6 months immediately following termination of any such war."

Then in 1946 it was repealed entirely.

In 1945, Congress not only extended the operation of the Selective Training and Service Act of 1940, but restricted the assignment of inductees "under 19 years of age" to bar "combat duty."

Without "at least 6 months of military training of such character and to the extent necessary to prepare such inductee for combat duty."

Then, in 1967, in the Military Selective Service Act an even more stringent provision is contained in section 4(a)—

... Every person inducted into the Armed Forces . . . shall, following his induction, be given full and adequate military training for service in the armed force into which he is inducted for a period of not less than four months, and no such person shall, during this four months period, be assigned for duty at any installation located on land outside the United States, its Territories and possessions (including the Canal Zone): Provided, That no funds appropriated by the Congress shall be used . . . in violation of the provisions of this paragraph.

Mr. President, it is quite clear that Congress has, historically, indicated when and where draftees were going to be used, even when we had a Selective Service Act that provided for a draft.

The thing that most deeply disturbs me about the state of affairs we find ourselves in in the country today is that the war-making power has in effect been taken out of the hands of Congress by the President—the executive branch—and Congress is presented with a "fait accompli."

Then we have, after the troops are

already, for instance, in Vietnam, to go along with supplying them with weapons and food. We remember the expression a number of years ago to the effect that—

Otherwise, we are not standing up for our boys who are in combat.

In fact, Congress was not presented with the problem clearly before our soldiers were sent to combat. A single reading of the constitutional convention indicates very clearly that the framers of the Constitution were exceedingly worried about giving to the Chief Executive full war-making power. As a matter of fact the first draft of the Constitution contained language that the Congress would have the power to make war. It was only subsequently that the word "make" was deleted and the word "declare" was inserted in its place.

It was quite clear that the framers of the Constitution were very worried about the President on his own initiative becoming involved in a conflict similarly to what they had seen the British sovereign do for many years preceding our Revolution.

It was quite clear that they wanted to make it clear that the body which represented more closely the American people would be the one to determine that there was in fact going to be a war which would involve great physical and economic sacrifice, a war which would involve very significant moral and legal consequences.

We have seen over a period of time the slow derogation of the powers of the Congress to declare war. I think that a good part of the malaise existing in the country today has arisen because the President of the United States, without coming to Congress, has single-handedly on a number of recent occasions taken actions which went far beyond what I interpret to be his war-making powers.

I am thinking not only in terms of sending troops to Vietnam, but also in terms of sending forces to the Dominican Republic, using as an excuse the fact that we were saving American lives and protecting American property. It became clear later on that this was a subterfuge and was not the only reason. There were other reasons—American interests and the fear that, perhaps, communism would take over the Dominican Republic. No one is less inclined to see communism take over the Dominican Republic than I. However, I am also very deeply concerned about the problem of Congress asserting itself in its war-making powers.

Mr. President, when we consider that Vietnam has resulted in the loss of 54,000 young American lives, that draftees have been plucked from the campuses and assembly lines to forfeit their lives in the rice marshes of Southeast Asia, that the vast majority of these young people have been in their teens and early twenties, that they have not died in the defense of the American shores or in the interest of our liberties, but in a revolutionary war 10,000 miles away from our capital, that this war grinds on and on, that it involves enormous economic and physical sacrifice, I think it is then clear why it was that the framers

of our Constitution had more prescience than we have today.

They knew that the only way we were going to be able to get broad support for a long, involved military effort was to have those men who were more closely representative of the American people make the determination to begin with.

I feel that this amendment goes further in restating the balance of power in this country between the Congress and the Chief Executive than does the Nelson amendment, although I strongly support the Nelson amendment, too.

I think it is about time we begin to put substantial pressure on the administration to get us out of this war in a time definite.

My amendment, I will say, does have, in my opinion, an ancillary impact on making the Chief Executive get us out of this war and get us out soon.

It has been clearly stated by the Senator from Mississippi in a very articulate fashion that it would be impossible over a long period of time to fight a war in Vietnam without draftees. I agree with that statement. That is one of the reasons I think this amendment is important. If there are no draftees in Vietnam, we will be required to scale down that war and get out.

However, there is another side to the picture besides getting out of Vietnam which I think my amendment would accomplish. This amendment also has another effect. It says to the Chief Executive:

In any future conflagrations in which you are thinking of getting the United States involved, in which there will have to be a substantial commitment of American troops, you will have to come to the Congress of the United States to get either a declaration of war or a resolution which specifically states what your commitment will be.

I know that the Senator from Mississippi, back before the Vietnam War, was opposed to sending American forces to mainland Asia. And I feel very strongly that if the Tonkin Gulf joint resolution had stated clearly that the President of the United States had the power to send up to 1 million American forces to Vietnam to bring about a military victory in that sad area of the world, that the Congress of the United States would not have voted for it, even though there was a war fever as a result of the alleged attacks on our destroyers in Tonkin Gulf. I am convinced that if Congress had been presented with a resolution that stated clearly and on all fours the kind of power we were giving to the President and the kind of monetary and physical commitment we were going to be making, Congress would have rejected it.

So, I would hope that we would strike a blow for liberty, strike a blow for the Congress, strike a blow to give back to the Congress the powers that the framers of the Constitution gave to it and which, as a result of our own inaction, we have allowed to slip away.

Mr. President, I hope that my amendment will be agreed to.

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

Mr. STENNIS. Mr. President, I yield 1

minute to the Senator from Wisconsin in opposition to the amendment.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 1 minute.

Mr. NELSON. Mr. President, I support the amendment of the Senator from California. It is very similar to mine except that it is a little broader.

It would prohibit the sending of troops to a combat area. I am not sure how that is defined. However, Vietnam is certainly a combat area.

My amendment is narrower and intentionally so, because I thought that it would be difficult enough to get votes for the proposition that we could not send troops into Vietnam, without including a prohibition on the sending of draftees to Vietnam in a noncombat role. However, I agree with the amendment, and I will vote for it.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. Mr. President, is this amendment considered by the Chair as a perfecting amendment, as a substitute amendment, or just how?

The PRESIDING OFFICER. The amendment is a perfecting amendment.

Mr. STENNIS. I thank the Presiding Officer.

Mr. President, the amendment as submitted by the Senator from California is different than the one that is printed.

Mr. President, this is a new start. If, in effect, the Senate is going to agree to this amendment, then some of the specific points that apply to the amendment we have been discussing have gone down the drain. I want to point out that this is a vastly different amendment and a more impossible one than the amendment of the Senator from Wisconsin.

This amendment offered by the Senator from California has a double expansion feature. He has abandoned the idea of being assigned to a combat role and substitutes for it the words "combat area."

We just received a copy of the new version of the amendment and it does have the term "combat areas" as I have just pointed out.

Mr. President, what is a combat area? We have discussed the term "combat role," but what is a "combat area"? This would apply not just to Vietnam but also to all combat areas or potential combat areas.

We send our carriers into the Mediterranean because there is trouble or threatened trouble over there. One need not doubt that if this amendment is agreed to it is going to greatly cut down on the number of volunteers, and we will have draftees in the Navy—direct draftees—within a fairly short time, I believe.

Mr. President, if a carrier is sent into these troubled spots in potential combat areas, what is the commander going to do if he has some marines who had been drafted?

We had this question come up last September during the Jordanian crisis, when we had planes ready to fly in and rescue some of our citizens. Combat was going on among the people of Jordan.

Certainly that was a combat area of the world. If we had gotten mixed up in that we would have violated this amendment. So I do not know how we determine where a "draftee" could be sent if they are going to be excluded from all combat areas of the world.

We would not only lose the influence of potential intervention, but also we would have a direct mandate of law, known to all the world, that a great number of our men were not eligible to go into a combat area. I think that very quickly we would depopulate a lot of the essential parts of our services and they would very soon be relegated to a make-believe force. We would not have any chance to be of any influence in a crisis. We would be doing a vain thing to go steaming out to sea if we had any draftees aboard or on the firing line.

Mr. President, if there is a desire to kill the Selective Service Act entirely, and if it is thought that is best for the Nation and for our security, we should take a direct vote and not do it by attrition and a kind of immunization, or by giving it a hypodermic so that no one will be exposed to anything. With all deference, under this amendment we would have a make-believe Army, Navy, Air Force, and Marine Corps.

The Senator touched on the war-making powers of the President. Incidentally, the Senator from Wisconsin pointed to a very fine, heroic stand he took here in 1965. I well remember it. It is well known that I was not in favor of going into Vietnam either in the beginning. I want us to go back to the constitutional safeguard of a declaration of war before we engage in a war. The only real safeguard that the people who fight these wars have is a constitutional safeguard. I know we have to make allowance for nuclear attacks, which, God forbid would ever happen, and we have to make allowances for another emergency such as Pearl Harbor.

But I favor a return to the constitutional principle of a declaration of war by the representatives of the people being required, and I want to return to it directly and not indirectly.

With all deference to the Senator, this is an indirect way to destroy our manpower under the theme of returning to a declaration of war by Congress. That is the indirect approach; and it destroys the capacity to protect our shorelines.

I think everyone knows we have to have ICBM's, and we hope never to use them, but to be sure they will never be used on us we have to have them and to have them ready. We have to have them ready so there will not be any doubt about our capacity. For a few more years I believe we must have the Selective Service Act. If that act is not correct, let us not enact it at all, but let us not put the law on the books and then take the air out of the car's tires so it will not run, or take the manpower away from the military so it will not be effective.

I think this would not only destroy our manpower policies, but would reduce to nothing the entire concept of voluntarism. This amendment is going in the opposite direction, the very opposite direction, from those who wish to

have and support the idea of volunteer services.

I think we have to make a choice. We cannot have it both ways. Are we coming or going? This amendment could not be more carefully drawn to sharply bring forth that issue.

Mr. TUNNEY. Mr. President, will the Senator from Wisconsin yield to me briefly?

Mr. NELSON. The Senator has time in his own right.

The PRESIDING OFFICER. The Senator yielded back his time.

Mr. NELSON. I yield 3 minutes to the Senator from California.

Mr. TUNNEY. Mr. President, I would like to say to the Senator from Mississippi, with regard to several statements he made, that my amendment does not envision the existence of a combat area until there is combat going on in the area.

To say we could not send draftees to Europe because it is a potential combat area fails to understand the thrust of my amendment. It assumes there is combat going on in the area, and not potential combat. If there is combat going on in the area, for instance, in the Middle East, then it seems to me that Congress should be called upon to make a determination of whether we are going to send troops to that area. That is what I am asking.

I am asking that we reassume the powers given to us by the framers of the Constitution that Congress can designate combat areas to which draftees can be sent. That could be done in this bill. They could do it within 24 hours after the President asks them to, but it seems to me that it is not asking too much to have the President come to the Congress, so that before he sends draftees overseas to fight and die in a war, he must ask the Congress for approval. That is what the Constitution says to begin with, and it is quite clear in my mind that it is something which we need desperately.

After all, there was a very substantial period of time in our history when we did not have draftees, and I do not see any reason at all, if we are going to continue the draft—as I think in all likelihood we will—why we should not share in the decisionmaking power as to where those draftees are going to be sent. If the Congress wants to send those draftees to Vietnam, there is no reason why it cannot say so. This seems to me to be a way of reestablishing congressional power to determine where we are going to send our conscripted military forces and when we will send them there.

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

Mr. STENNIS. Yes; but first I want to reply to some of the comments of the Senator.

Mr. GOLDWATER. I do, too.

Mr. STENNIS. How much time does the Senator want?

Mr. GOLDWATER. About 3 minutes.

Mr. STENNIS. Mr. President, I yield myself 2 minutes for the purpose of replying to the Senator from California.

I want to warn the membership now about the broad sweeping turn of this amendment concerning duty in any combat area outside the United States. When

I drafted a proposal that concerned returning to a declaration of war, I accepted that and recognized the power of the President to rescue our own citizens who were in a friendly country and obeying the law, or to rescue our own Armed Forces or any other group that represented our great Nation in these times of peril. We have people all over the world, and they are lawfully there with our approval, and we cannot exclude ourselves in every way from having our military men, who may be in complications, ready to be rescued.

I illustrate again the trouble in Jordan last September. Under the Senator's amendment, a doctor who was drafted—and doctors are drafted—could not have been sent there to an area where our own citizens were being incarcerated or where they were under fire or in hostile circumstances. A medic who had been drafted could not be sent there. So this amendment would hog-tie us all around the world in a most severe kind of way and hamper our manpower policies.

Mr. President, I yield 4 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I think everyone in this body knows my position on the voluntary military. I think we are getting out into some very dangerous ground when we begin considering amendments such as we are now being asked to consider here.

I do not know how someone can read the Constitution and come away with the opinion that the Congress has the right under the Constitution to determine where forces are going to be used. The only power of war in our Government is in the President of the United States. He is the Commander in Chief.

The Congress is called upon to provide for organizing, arming, and disciplining the militia; to raise and support armies; to provide and maintain a navy.

At no place is there any language that can be interpreted as providing that this body should ever have the right—a very dangerous right—to determine where men in the militia are going to be sent or where wars are going to be fought.

People say that we have the right to declare war. We do, but we have had 158 wars in the history of this Republic and only five of them have been declared, and two of those in the same war.

Mr. President, if we want to get into the dangerous business of trying to change the Constitution and its intent by amendments to other amendments, by legislation, then I say, Mr. President, that we are treading on extremely dangerous ground.

I would rather trust one man with the decision of war than trust 500 men, all of us influenced by politics or where we come from or by the people we represent. The decision of war rests with the President; the decision of peace rests with the President.

Some people in this body may not like that, but I say, whether the man be a Democrat or a Republican, I would rather trust that one man's judgment, when it comes to the day of deciding whether we go to war or not, than to have it debated in and out over the floors of these two Houses day after day after day.

We are playing into the hands of any enemy we might engage when we say that this body or the other body or both bodies will begin making strategic decisions or tactical decisions or making decisions on whom we are going to send to this or that theater of war, or even sitting down and deciding whether it is a combat zone or not.

There does not have to be combat in a combat zone. A combat zone is any place the commanders want to make a combat zone.

Mr. President, I shall oppose any amendment like this, even though it is directed toward a voluntary military, because I think it is very, very dangerous.

I think Senators who continue to offer this type of legislation should realize that if they want to make these changes there is only one way to do it. The way to do it is to amend the Constitution.

Mr. President, I put this question to about 50 of the most prominent lawyers in the country, Democrats, Republicans, and Independents, people who think I am half nuts or full nuts.

They told me, "Do not change the Constitution. Do not give the Congress any explicit discretion in warmaking powers. It would be the end of our Republic."

Just as sure as I am standing here on this floor, Mr. President, I intend to vote against this amendment and vote against any amendment similar to it, just as I shall oppose with all my vigor any legislation to change the warmaking powers of the President.

I thank the Senator from Mississippi.

UNANIMOUS CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, will the Senator yield me 30 seconds?

Mr. STENNIS. Yes; I yield 1 minute to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the vote on the perfecting amendment offered by the able Senator from California (Mr. TUNNEY) to the amendment offered by the able Senator from Wisconsin (Mr. NELSON) occur at 10 minutes past 12 o'clock today.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

How does the Senator want the time divided?

Mr. BYRD of West Virginia. Mr. President, how much time remains on the amendment offered by the Senator from California (Mr. TUNNEY)?

The PRESIDING OFFICER. Twelve minutes remain to the Senator from Mississippi.

Mr. BYRD of West Virginia. Mr. President, the Senator from Mississippi can speak to that.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 12 minutes.

Mr. STENNIS. Twelve minutes?

The PRESIDING OFFICER. That is correct.

Mr. STENNIS. On the Tunney amendment? How much time do I have left on the Nelson amendment?

The PRESIDING OFFICER. There would be 33 minutes remaining on the original amendment.

Mr. NELSON. Mr. President, does the Chair mean that the Senator from Mississippi has 33 minutes left on my amendment?

The PRESIDING OFFICER. The Chair wishes to make a correction. The Senator from Mississippi would have 23 minutes; the Senator from Wisconsin, 29 minutes.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. That 23 minutes is in addition to the 12 minutes on the Tunney amendment?

The PRESIDING OFFICER. That is correct.

Mr. NELSON. May I make another parliamentary inquiry?

Mr. STENNIS. Surely.

The PRESIDING OFFICER. The Senator will state it.

Mr. NELSON. What happens to the time that is yielded back?

The PRESIDING OFFICER. By unanimous consent, the vote on the pending Tunney amendment will occur at 10 minutes after 12. Time yielded back goes back to those in control of the Nelson amendment.

Mr. NELSON. But I am advised that I have 29 minutes. What I am curious to know is, am I using up my 29 minutes if I talk between now and 10 minutes after 12?

The PRESIDING OFFICER. No; any remaining time yielded back goes to the original amendment by the Senator from Wisconsin (Mr. NELSON).

Who yields time?

Mr. NELSON. Will we end up with 18 minutes of golden silence?

The PRESIDING OFFICER. No, the Senator may speak on his amendment, or the Senator from Mississippi may assign time to speak on the amendment.

Mr. NELSON. I would like to be sure that when the rollcall was over at 12:10, I shall have 15 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin has 29 minutes now, before or after the vote on the Tunney amendment.

Mr. BYRD of West Virginia. Mr. President, depending, if I may say most respectfully to the Chair, on whether or not the vote on the Tunney amendment is by rollcall or by voice vote.

The PRESIDING OFFICER. That is correct.

Mr. BYRD of West Virginia. If it is by rollcall, the able Senator from Wisconsin would not have that amount of time left on his own amendment; am I correct?

The PRESIDING OFFICER. The Senator is correct. The time would be consumed in the rollcall.

Mr. NELSON. If there is a rollcall, the 20 minutes used in the rollcall comes out of my 29 minutes?

The PRESIDING OFFICER. It comes out equally from the time of the Senator from Mississippi and the time of the Senator from Wisconsin.

Mr. NELSON. That leaves me 19 minutes?

The PRESIDING OFFICER. If the rollcall takes 20 minutes; the Senator is correct.

Mr. NELSON. The rollcall must take 20 minutes, must it not, under the rule?

The PRESIDING OFFICER. No rollcall has been ordered as yet.

Mr. NELSON. If there is a rollcall vote, it must take 20 minutes.

The PRESIDING OFFICER. That is correct under our present practice.

Mr. NELSON. So then I have 19 minutes left, if there is a rollcall, is that correct, after the rollcall?

The PRESIDING OFFICER. That will be correct, provided more time is not consumed in the current discussion.

Mr. TUNNEY. Mr. President, will the Senator from Mississippi yield to me?

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Does the Senator from California have no time left?

Mr. TUNNEY. I yielded back my time.

Mr. STENNIS. Mr. President, I am glad to yield 5 minutes of my time to the Senator from California.

Mr. TUNNEY. I thank the distinguished Senator from Mississippi for yielding me 5 minutes. I do not need them, but I would like to respond to some of the remarks that were made by the very able Senator from Arizona.

I do not interpret the Constitution and the Constitutional Convention the same way that the Senator from Arizona does. I think that it is quite clear, from a reading of the record of that Constitutional Convention, that originally, in the draft language of the Constitution, Congress was given the power to make war, and the reason that the words "make war" were dropped and the words "declare war" were inserted, therefore, was because there was an apparent feeling on the part of some members of the Constitutional Convention that Congress would be required, once war was declared, actually to conduct the war, and it was quite clear that the President, as Commander in Chief, had the inherent power, or should have the inherent power, actually to conduct a war once it gets going.

I am deeply disturbed that, since the Constitution was framed and adopted, we have seen a situation develop in which Presidents really do not pay much attention to Congress at all, either when locating men in areas where there is substantial danger of war, or when sending men to combat zones where fighting is occurring.

My amendment simply directs itself toward combat areas. It simply states that the Chief Executive must come to Congress and obtain permission from Congress before he sends American draftees to combat.

As far as I am concerned, it is just a simple restatement of what was originally intended. It does not go nearly as far as the Constitution, because the Constitution talks about declaring wars, and all manpower being under the control of Congress for the purpose of declaring war. My amendment directs itself only to draftees, not toward enlisted men.

We well know that there are at the

present time in our Army 700,000 enlistees. Only a relatively small number, 30 percent, are draftees. So I do not see how one can say that the adoption of this amendment will destroy America's defense posture, when Congress at any time can determine that there is an area where draftees should be sent, including Vietnam, the Middle East, Africa, Latin America, or anywhere else.

The Draft Act of 1940 was much more circumscribed in its language as to where draftees could be sent. No draftees were allowed to be sent outside of the Western Hemisphere. No draftees were allowed to be sent to areas besides the Western Hemisphere other than possessions, territories, and the Philippines.

After Pearl Harbor, it took precisely 6 days for Congress to abrogate that language and to allow the draftees to be sent anywhere. So I simply cannot agree with the Senate, with all due respect, that we are going to be destroying our defense structure by the adoption of this amendment, nor do I feel that the Constitution gave to the President the right or the inherent power to decide when we are going to have war and where he is going to send American troops overseas for the purpose of conducting that war.

I believe, recognizing that there is a great deal of disagreement as to what inherent powers of the President are with respect to war, that clearly the President has the power to repel an attack, notwithstanding the provisions of my amendment.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. GRIFFIN. Mr. President, can the Senator from Mississippi yield to me?

Mr. STENNIS. The Senator from South Carolina wants 4 minutes. I have promised to yield him some time.

The PRESIDING OFFICER. The Senator from Mississippi has 2 minutes left on the amendment, but there is time remaining on the bill.

Mr. STENNIS. Mr. President, I have just been advised that I had 12 minutes left and I yielded 5 minutes as a courtesy to the Senator from California. That leaves me 7 minutes.

The PRESIDING OFFICER. The time for the parliamentary inquiries consumed time on both sides.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. How much time did the Senator from California yield back a few minutes ago?

The PRESIDING OFFICER. Twenty minutes.

Mr. STENNIS. Mr. President, under the circumstances I ask unanimous consent that the Senator have that time restored, because I did not yield back any, and customarily, yielding back is not binding unless the other side yields also.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Mississippi? Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I yield 10 minutes to the Senator from Mississippi.

Mr. STENNIS. I thank the Senator very much. I yield 4 minutes to the Sen-

ator from South Carolina (Mr. THURMOND).

Mr. THURMOND. Mr. President, passage of the pending amendment to prohibit the assignment of draftees to a combat area overseas would tie the hands of the President and bring confusion and new problems to our own Army.

Mr. President, I would like to list some of the reasons why this amendment should be defeated and comment briefly on each point.

First, the flow of volunteers into the Army and other services would drop sharply if draftees are excluded from assignment to a combat role. This development would obviously hamper attainment of a zero draft or volunteer armed forces status as men would not volunteer under these circumstances.

Men volunteer today in order to avoid being drafted. Once draftees are exempted from assignment to combat roles the incentive to volunteer would be gone.

Second, this amendment says draftees cannot be assigned to "a combat role anywhere overseas." Thus, the President's constitutional duty as Commander in Chief would be muted in the event of an attack on U.S. forces presently located anywhere overseas. Further, some unforeseen situation may require a new deployment in Southeast Asia which even the advocates of this amendment would consider clearly in the national interest.

Third, passage of this amendment would establish two classes of soldiers in the ranks of our Army. One could serve in combat areas, the other could not.

The morale problem associated with such a situation would be dangerous to the health of all our services. Unit integrity would be lost as any units which the President may wish to deploy would have to be cleared of draftees. Numerous other problems would develop.

Fourth, exclusion of draftees for assignment to a combat role would establish a bad precedent. This trend could result in increased politics among military dissenters and impress men with the idea that they and not their Government would be the judge of combat commitments.

Fifth, under this amendment the management of the Vietnamization program would suffer and the safety of the declining U.S. troop forces there would be jeopardized in the event of an enemy attack.

Sixth, since replacements for the combat skills come mainly from the draft, the Army reports it would have to deny rotation home to those men now in Vietnam who have served their tour there.

Presently the United States plans to have around 184,000 men in Vietnam by the end of this year. Even with this small a force, rotation support personnel are still needed.

Mr. President, this amendment would tie the hands of the President of the United States. It would throw into disarray his Vietnamization and force reduction program which he has faithfully followed to date. It would wreck the present volunteer intake and establish two classes of soldiers. It would almost be

like having no Army at all if we operated under a restriction such as this amendment would impose. I urge my colleagues to defeat this proposal.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on the amendment offered by the distinguished Senator from California.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, the Senator from Michigan has requested time. I withhold my time.

The PRESIDING OFFICER. The Senator from California has the remaining time.

The time will run equally.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. Have the yeas and nays been ordered on the Tunney amendment?

The PRESIDING OFFICER. The yeas and nays have been ordered on the pending Tunney amendment.

Mr. STENNIS. According to the unanimous consent agreement, for what time is the vote scheduled?

The PRESIDING OFFICER. The vote is scheduled for 10 minutes after 12.

What is the will of the Senate?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally divided between both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. TUNNEY. Mr. President, I should like to reiterate just a few points regarding my amendment as applied to the arguments which have been made against it. One of the arguments was that it would severely curtail the flexibility of the President to send American forces overseas in the event of a threat or of danger to our country.

In any eventuality in which there was not a nuclear attack against us, but in which there was a situation requiring American troops to be sent overseas for an extended combat role, I personally cannot believe that the President could not come to Congress and ask for permission to send troops overseas, by adoption of an amendment to the Selective Service Act such as the one now pending.

Besides that fact, there is no reason at all why the President could not have a special force for circumstances in which it was felt necessary to send a small contingent of forces into a country to protect American lives or property.

I believe that, if anything, my amendment would bring the President and Congress closer together, requiring the President to consult with Congress prior to the time he undertakes wars overseas.

I also feel that the argument recently made, that the amendment would act in a discriminatory fashion against those who enlist in the Armed Forces, is a poor argument for two reasons.

First, in 1970 in Vietnam there were 115,100 draftees and 154,900 volunteers. Thus, clearly, there are Americans who are willing to volunteer to go into combat. Second, and irrespective of that, however, anyone who does enlist in the Army for combat duty could and should be forewarned that by enlisting there is danger that, if a war breaks out, he may well be sent to fight and possibly to die.

As it is now, as has been pointed out so ably by the Senator from Wisconsin, draftees are having to suffer discrimination, are having to suffer the major burden of fighting the war, and have suffered 57 percent in casualties and deaths, even though they represent 37 percent of our fighting force.

It is clear, therefore, in Vietnam, who is getting sent up to the frontline. They are the men who did not enlist in the Army and get an MOS to enable them to stay out of combat.

If there is any one thing about the war in Vietnam that I consider to be most unfair—other than to the people of Vietnam themselves, and I think that the war to them is a total horror—it is the fact that the draftees are being called upon to sustain a far greater burden of fighting the war than those who make up the professional army.

It seems to me paradoxical to have those who volunteer to make the service their profession benefited through their volunteer status by not being sent into combat.

The PRESIDING OFFICER (Mr. STEVENSON). The time of the Senator from California has expired.

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from Michigan (Mr. GRIFFIN) that he might ask a question or two of the Senator from California.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 2 minutes.

Mr. GRIFFIN. Mr. President, for purposes of clarification as to what would happen if we were to adopt the amendment of the Senator from California, I should like to ask a question or two.

As I understand, it precludes duty by draftees in any combat area outside the United States. We had some disagreement recently as to how many troops should be in Europe, but no one suggested, for example, that the number at this time be reduced below 150,000. Certainly many of those are draftees at the present time, although it is not a combat area.

Suppose it became a combat area as a result of hostilities breaking out—well, let us say, between Israel and the Arabs; would it be a combat area or would it not be a combat area?

Mr. TUNNEY. Is the Senator talking about Europe or the Middle East now?

Mr. GRIFFIN. I do not know how large the combat area would be, of course. Second, if that would not be considered a combat area, suppose there were hostilities breaking out in Germany which

did not involve the United States, what would happen? Would the President immediately have to withdraw those who happened to be draftees? It seem to me that is what the amendment says—

Mr. TUNNEY. No—

Mr. GRIFFIN. Because it says, "any combat area outside the United States."

Mr. TUNNEY. Let us just—

Mr. GRIFFIN. If that involved combat on the part of the United States of America—

Mr. NELSON. Mr. President, I call attention to the fact that the hour of 10 minutes after 12 has arrived.

Mr. STENNIS. Mr. President, the Chair said that I had 2 minutes. I yielded 2 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The hour of 12:10 having arrived, the question is on agreeing to the Tunney amendment to the Nelson amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia: I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Idaho (Mr. CHURCH), the Senator from Louisiana (Mr. ELLENDER), the Senator from Georgia (Mr. GAMBRELL), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Virginia (Mr. SPONG) are necessarily absent.

I further announce that the Senator from Alabama (Mr. ALLEN), the Senator from Michigan (Mr. HART), the Senator from Hawaii (Mr. INOUE), the Senator from Washington (Mr. JACKSON), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), and the Senator from Missouri (Mr. SYMINGTON) are absent on official business.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), and the Senator from South Dakota (Mr. MCGOVERN) would each vote "yea."

I further announce that, if present and voting, the Senator from Michigan (Mr. HART), the Senator from Washington (Mr. JACKSON), and the Senator from Georgia (Mr. GAMBRELL) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Hawaii (Mr. FONG), the Senator from Wyoming (Mr. HANSEN), the Senator from Maryland (Mr. MATHIAS) and the Senator from Iowa (Mr. MILLER) are necessarily absent.

The Senator from Utah (Mr. BENNETT) is absent on official business.

The Senator from New York (Mr. JAVITS) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Delaware (Mr. BOGGS), the Senator from New Jersey

(Mr. CASE), and the Senator from Ohio (Mr. SAXBE) are detained on official business.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Iowa (Mr. MILLER), and the Senator from South Dakota (Mr. MUNDT) would each vote "nay."

The result was announced—yeas 7, nays 61, as follows:

[No. 74 Leg.]

YEAS—7

| | | |
|----------|-----------|--------|
| Cranston | Mansfield | Tunney |
| Gravel | Nelson | |
| Hatfield | Proxmire | |

NAYS—61

| | | |
|--------------|---------------|-----------|
| Aiken | Ervin | Pell |
| Allott | Fannin | Percy |
| Baker | Fulbright | Prouty |
| Beall | Goldwater | Randolph |
| Bentsen | Griffin | Ribicoff |
| Brock | Gurney | Roth |
| Brooke | Harris | Schweiker |
| Buckley | Hollings | Scott |
| Burdick | Hruska | Smith |
| Byrd, Va. | Hughes | Stennis |
| Byrd, W. Va. | Humphrey | Stevens |
| Cannon | Jordan, N.C. | Stevenson |
| Chiles | Jordan, Idaho | Taft |
| Cook | Kennedy | Talmadge |
| Cooper | Magnuson | Thurmond |
| Cotton | McClellan | Tower |
| Curtis | Mondale | Weicker |
| Dole | Montoya | Williams |
| Dominick | Packwood | Young |
| Eagleton | Pastore | |
| Eastland | Pearson | |

NOT VOTING—32

| | | |
|----------|----------|-----------|
| Allen | Gambrell | McIntyre |
| Anderson | Hansen | Metcafe |
| Bayh | Hart | Miller |
| Bellmon | Hartke | Moss |
| Bennett | Inouye | Mundt |
| Bible | Jackson | Muskie |
| Boggs | Javits | Saxbe |
| Case | Long | Sparkman |
| Church | Mathias | Spong |
| Ellender | McGee | Symington |
| Fong | McGovern | |

So Mr. TUNNEY's amendment to Mr. NELSON's amendment was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BYRD of West Virginia and Mr. HRUSKA moved to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

FAILURE OF BELLS

Mr. BYRD of West Virginia. Mr. President, the distinguished senior Senator from Louisiana (Mr. ELLENDER) and the distinguished senior Senator from New Jersey (Mr. CASE) were attending an important committee hearing on defense appropriations when the vote occurred a moment ago on the amendment offered by Mr. TUNNEY. The bells failed to ring in that committee room, and the two Senators, not being informed that a roll-call vote was underway, missed the vote on the Tunney amendment.

I make this statement so that the RECORD will show way they were not on the floor to answer their names when the roll was called.

Moreover, I am advised by Mr. ELLENDER that if present, he would have voted in the negative.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. What time does the

next vote come and on what amendment is it?

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Wisconsin. The vote will be at 1 o'clock. There are 15 minutes remaining to the Senator from Wisconsin and 10 minutes to the Senator from Mississippi.

Mr. NELSON. Mr. President, I yield 4 minutes to the Senator from Minnesota (Mr. HUMPHREY).

END OF DRAFT FOR VIETNAM

Mr. HUMPHREY. Mr. President, I had proposed—along with Senator NELSON—an amendment to H.R. 6531 which would prohibit the sending of draftees to Vietnam against their will. The amendment would also allow for draftees now serving in the Vietnam theater to leave Vietnam after their tour of duty unless they volunteered to remain. I ask unanimous consent that the text of my amendment of May 6 be printed at this point in the RECORD.

Although I introduced this amendment on May 6, I had advanced this proposal during the past several months, indeed as early as October 1969. It is, I believe, the crux of the issue we are now debating. Even though we are ostensibly discussing the extension of alternatives to the present Military Selective Service Act, we are also talking about Vietnam in this debate. Vietnam is to the Selective Service Act as unemployment is to the administration's fiscal and monetary policies.

In other words, you cannot grapple with the one question without discussing the other. I would even be so presumptuous as to assume that opponents and proponents of H.R. 6531 would agree to that proposition.

I would go even one step farther and say that all of us here are concerned with ending American involvement in Vietnam. Where we differ is on the method and the timing. There is, nevertheless, a great deal of room for a convergence of viewpoints on particular aspects of this issue.

We may not all agree that American involvement should be terminated by the end of this year, but we all should welcome the news of Secretary Resor's announced prediction that our combat role in Vietnam could be over by this fall.

Until now, the Department of Defense has claimed that the replacement requirements for combat service in Vietnam after July 1, 1971, could not be met by voluntary enlistments. It has published projections for combat requirements which do not take account of the latest developments, as described by Secretary of the Army Resor after returning from his latest trip to Vietnam.

If we will not need combat troops in Vietnam after the fall of this year, it is certainly feasible that their phased withdrawal can be carried out in an orderly fashion without requiring draftees to be sent to Vietnam. To contend that a draft will be required to meet combat requirements during this phased withdrawal makes little sense when we consider the fact that a boy inducted into the Army in July would not be sent to Vietnam before October at the earliest. It takes be-

tween 13 and 16 weeks for a draftee to be trained for a combat role and Secretary Resor tells us that there will be no combat role by the fall.

Even were the Secretary's predictions to fall short in reality, there is another factor to consider. Under the present bill to amend the Military Selective Service Act, there is a provision for special enlistment and reenlistment bonuses. The Army has the intention of implementing a plan for a \$3,000 combat arms enlistment bonus if this provision of the present bill is accepted. This idea is in line with the administration's recommendation, based on the findings of the Gates Commission. The idea is to provide cash and nonmonetary inducements to raise the proportion of volunteers in the Armed Forces.

Since this provision has not yet been implemented, it is difficult to ascertain just what the response will be. It is, however, very likely that the number of volunteers will go up significantly. As a result the low figure which is now being used by the Defense Department as an argument against my amendment would be even less relevant than it probably already is.

Aside from these specific arguments in support of my—our, if Senator NELSON joins—amendment, there is something, perhaps less tangible, but far more germane to this whole question. That is the fact that we are all decided upon ending American involvement in Vietnam. Now that we have made this painful decision, how can we expect the young men who represent the future of this country to become involuntarily involved, at the risk of their own lives, in a war which we are decidedly against.

I have tried to show that even in accordance with the administration's plan for withdrawal there is little risk from a military-strategic point of view to prohibit the sending of draftees to Vietnam against their will.

Far more important, we should not be forcing this kind of sacrifice unless we ourselves are committed to it. And we are not. We are at long last committed to withdrawal. I submit, therefore, that it is just and reasonable to require only volunteers and not draftees to serve in Vietnam.

I ask unanimous consent that the explanation of the Nelson-Humphrey amendment to H.R. 6531 be printed at this point in the RECORD. Also I ask unanimous consent that a statement of mine in support of this amendment be printed in the RECORD.

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

EXPLANATION OF NELSON-HUMPHREY AMENDMENT No. 105 TO H.R. 6531 SELECTIVE SERVICE BILL

The amendment number has been changed from 64 to 105 without change in the language of the amendment. The amendment would add a new section reading:

"After December 31, 1971, no person inducted into the Armed Forces of the United States under the Military Selective Service Act of 1967, or any other conscription act, may be assigned to a combat role in Southeast Asia, unless he volunteers for such assignment or has voluntarily re-enlisted in the Armed Forces."

The amendment would require that, after December 31, 1971, no draftee may be assigned to a combat role in Vietnam unless he volunteers for that assignment or has re-enlisted in the service.

The intent of this amendment is to prohibit new assignments under the prohibition, not to require that draftees already serving in combat assignments on the effective date must be reassigned. They would remain until their tours expire. We would have preferred to remove all draftees from combat at the end of the year, but the mechanical problems of accomplishing this would be too severe.

The amendment seeks to correct a situation in which draftees have borne the heaviest burden of the war. At the end of 1970 draftees comprised 31 per cent of the Army enlisted ranks world-wide. But there were 37 per cent of Army enlisted strength in Vietnam. And they suffered 57 per cent of the combat deaths among Army enlisted men in Vietnam. The draft has been the primary vehicle for filling the most dangerous jobs in the war—those of combat arms soldiers (infantry, armor and artillery).

The amendment would apply to assignment of soldiers with Military Occupational Specialty designations in the combat arms. It would also cover assignment of soldiers with other MOS designations to combat units in which they would be likely to become involved in actual combat. On December 1, 1971, when the troop ceiling in Vietnam will be 184,000, the number of positions to which this amendment would apply would probably be between 30,000 and 50,000. We believe it reasonable to expect that these positions could be filled with the non-draftee enlisted ranks of the Army, which total 700,000 world-wide.

AMENDMENT

On page 33, line 13, strike out "1973" and insert in lieu thereof "1972".

On page 33, between lines 13 and 14, insert the following: "(33) At the end of the Act add a new section as follows:

"PROHIBITION AGAINST ASSIGNMENT TO DUTY IN VIETNAM

"SEC. 22. Notwithstanding any other provision of law, no person inducted into the Armed Forces under the provisions of this Act shall be assigned to duty in Vietnam after the date of enactment of this section unless he volunteers in writing for assignment to duty in such country. No member of the Armed Forces inducted into the Armed Forces under this Act who is serving in Vietnam on the date of enactment of this Act shall have his tour of duty in such country extended for any period beyond the normal tour of duty in such country (as in effect on the date of enactment of this section) unless such member volunteers in writing to have his tour of duty in such country extended or unless such person has reenlisted following his induction under this Act."

HUMPHREY SAYS NO DRAFTEES TO VIETNAM

WASHINGTON.—Senator Hubert H. Humphrey today urged support of the Nelson-Humphrey Amendment (Number 105) to the Selective Service Act, which would prohibit the sending of draftees to Vietnam unless they should volunteer.

Senator Humphrey said, "Secretary Resor, returning from his latest trip to Vietnam, now predicts that our combat role in Vietnam could be over by this fall.

"Earlier the Defense Department had claimed that the replacement requirements for combat service in Vietnam after July 1 of this year could not be met by voluntary enlistments.

"But it is becoming increasingly clear that an accelerated withdrawal can be carried out in an orderly manner without requiring draftees to be sent to Vietnam."

"The one sure way to accelerate disengagement is to stop sending them there for combat purposes. To continue to do so is justified neither morally nor militarily."

Senator Humphrey pointed out that when the Selective Service Act expires on June 30, the Army will have a standing force of approximately one million men, of which slightly over 30 per cent in the enlisted ranks will be draftees.

He said he was joining with Senator Nelson to consolidate what had been separate, but virtually identical amendments. Senator Humphrey on May 6 had introduced amendment number 78.

"The withdrawal from Vietnam should not be prolonged. How can we ask young men who did not volunteer either for the armed forces or for Vietnam to sacrifice their lives for a cause we are in agreement to end," he said.

"For all those who want to see an accelerated disengagement in Vietnam—and this includes the great majority of Americans—this amendment is a constructive and positive step."

Mr. HUMPHREY. Finally, Mr. President, in October of 1969, while visiting with the President and Mr. Kissinger, I suggested that the President might very well announce that no more draftees would be sent to Vietnam.

I hope in conclusion that this amendment will be adopted.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. I yield myself 3 minutes.

Mr. President, in all seriousness, this amendment, given application, would absolutely destroy our manpower arrangements within military organizations. Furthermore, it is a direct kick in the teeth to this concept of the so-called voluntary army. As a practical matter, while subscribing to all of these hopes about the success of an all-volunteer service for all the services, which is a part of the thinking and planning of a great many people, including the President of the United States, who has support on the floor on both sides of the aisle, if we are seriously going to adopt an amendment such as this and make it the law, all anyone would have to do in order to guarantee that he would not have to go into combat would be just to sit steady—just sit steady and be inducted. I do not think you are going to have any onrush here all of a sudden, gentlemen.

Under any circumstances, getting volunteers here to take the training, then have them specifically trained, then take them to Vietnam for their acclimatization training and have them ready anytime before January 1, 1972, I think is just a dream someone has.

What is a combat role? What is a combat role and what is a combat area in Vietnam?

The whole country is declared by the Army and the Defense Department to be an area where hostile fire pay goes to every man in uniform, because the combat area switches by day and by night, north to south, east to west, all over that vast land, with rockets firing here and there—and they still are—a lot of them inspired, I think, by the Vietcong that are there, as the sergeant said, plowing and planting their rice by day and going over to the enemy at night. That is one

of our great problems. The whole thing is a combat area, and I would repeat, with all deference to everyone, there is not a chance in the world of having effective combat units or military forces in being by the deadline here, January 1, 1972, if this amendment is to become law on that date.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. DOMINICK. Mr. President, will the Senator yield me 2 minutes?

Mr. STENNIS. I yield 2 minutes to the Senator from Colorado.

Mr. DOMINICK. I congratulate the Senator on his remarks. Because I happen to be in favor of a volunteer army as soon as possible, I am also, therefore, in favor of getting rid of the draft just as soon as we can.

It seems to me self-evident that this amendment, if adopted, will increase the number of people who will have to be drafted, instead of reducing that number, anyone who does not want to get into a combat role would just sit tight until drafted, instead of enlisting in lieu of the draft; and we are getting word over and over again that many people are doing exactly that.

Another important point not made by the Senator from Mississippi is that this is discrimination. Why pick out Southeast Asia? What about Korea? Why should we send a draftee into a combat zone of Korea, and not do it in Southeast Asia?

In my own humble opinion, we are not only interfering with the opportunity of the military to determine their own logistics in an area, and telling them how to classify the roles of the military personnel, but we are discriminating against those in combat areas in other areas of the world, and would be necessitating an increase in the draft calls over the next year.

Mr. STENNIS. I thank the Senator.

Mr. ERVIN. Mr. President, will the Senator yield for an observation?

Mr. STENNIS. I yield the Senator from North Carolina 1 minute.

Mr. ERVIN. Mr. President, this proposal to prevent draftees from going to combat zones in Southeast Asia reminds me of a little couplet wherein the daughter asked her mother if she might go swimming:

Mother, may I go swimming? Yes, my darling daughter.

Just hang your clothes on a hickory limb, but don't go near the water.

I thank the Senator.

Mr. STENNIS. I thank the Senator from North Carolina.

Mr. HARRIS. Mr. President, last year when the Senate considered the Hatfield proposal for an all-volunteer Army, I offered an amendment to the proposal that would set an upper limit on force size. The force size could, pursuant to the amendment I offered, only be increased by a vote of Congress.

I said at that time that the volunteer Army proposal raised three questions:

The tax-in-kind now being paid by draftees.

The degree to which Congress should directly and obviously control the size of the Armed Forces.

The question of which of our youth are to participate in fighting a war.

Because I felt these questions had not been sufficiently considered, I opposed the Hatfield proposal.

The amendment offered by the distinguished junior Senator from Wisconsin (Mr. NELSON) providing for no draftees in Vietnam after December 31, 1971, places in issue the last question I had relating to the Hatfield proposal—the question of which of our youth are to participate in fighting a war.

When this country is engaged in the fighting of a war, such as the one in Vietnam, I believe the burden should be evenly distributed throughout the populace, so that the sons of all of us are equally liable to have to fight in the war. This position, it seems to me, is sustained not only by basic fairness—and that is most important—but also because the prospect of sharing evenly the burden of fighting a war would, it seems to me, prove to be some deterrent against war itself. I believe this concern is applicable to the pending amendment.

As a cosponsor of the McGovern-Hatfield amendment, I am hopeful that it will not be necessary for either volunteers or draftees to risk their lives in Indochina after December 31, 1971. However, if that tragic war continues, then the burden of the war should fall evenly among the entire population. And the draft and its effect should be more equitable to bring about that result.

I appreciate the concern that Senator NELSON has expressed over the fact that even though draftees comprise only 31 percent of the Army enlisted ranks worldwide, they comprise 37 percent of the Army enlisted strength in Vietnam and have suffered 57 percent of combat deaths. This situation must be corrected. But, I do not believe the pending amendment is the best way to solve the problem.

Mr. NELSON. Mr. President, I do not like to repeat myself, but 2 hours ago I said some things I intend to say again, since there are now a few more Senators present.

First of all, I do not understand the argument that this proposal somehow would destroy the volunteer army that so many people are endorsing here. The fact of the matter is, if you are in the regular army or if you are a volunteer, your chances of getting into combat in Vietnam are a whole lot less than if you are a draftee. That is not equitable.

The statistics are shocking. Of all the enlisted men in the army, 31 percent are draftees. Thirty-seven percent of the soldiers in Vietnam are draftees. Fifty-seven percent of the boys who have been killed and 57 percent of the boys who have been wounded were draftees.

Where is the Regular Army? We are told 1,700 replacements will be needed in the combat arms in Vietnam, according to the Army, in December. Are these gentlemen who oppose this proposal saying that out of 200,000 Marines and 700,000 Regular Army, we cannot get 1,700 replacements in December? And if Mr. Bunker is right that we will be down to 100,000 troops on May 1, that will require 900 replacements a month. Are the gentlemen here who oppose this pro-

posal saying we cannot get 900 replacements out of the Regular Army professionals, with 700,000 enlisted men, and 200,000 Marines, all of them safe and sure volunteers, not draftees?

Mr. President, I do not believe it. And if it is true, then they should not be there at all.

The point of this amendment is quite simple. We ought to be honest about it. The country has rejected the war in Vietnam. The people now know that the President and Congress made a colossal, historic blunder in getting into Vietnam. So now we have a situation in which all the youth did not accept the war as involving a vital interest of America in the first place. All the youth have refused to accept the war from the beginning. The country has now rejected the war, and, as I said earlier this morning, if we could turn the clock back and had the benefit of hindsight, and we were to ask the President of the United States, Mr. Nixon, who supported the war in 1965 and 1967, or President Johnson, or any Member of Congress, or walk the streets of America and ask any citizen on the streets, "If you could turn the clock back to that tragic day in March of 1965 when this Congress voted the funds to start a ground war"—and I am proud to say I was one of the three who voted against it—"would you vote to do it again?" If you could ask them that question, they would all say, "No; we would not authorize a ground war."

So what are we saying to the youth of this country? We are saying to them, "We have rejected the war. The national policy is to get out of a bad war. But while the politicians filibuster around trying to devise a face-saving pretext—and that is all it is—to get out of a war where our national interest was never involved, while we are doing that, you young men are going to be drafted, and you have got two choices, go to jail or go risk your lives while the politicians try to find a way to get out."

Is there anyone around here who does not understand the reason for the disillusionment of the youth of America? I do. Anyone who thinks about it does. We are asking them to risk their lives for a cause that is not in the interest of this country. That is too much. I would not ask my son, or anyone else's son, to risk his life for that purpose, and Congress should not do so either.

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

Mr. NELSON. I yield to the Senator from Minnesota.

Mr. HUMPHREY. I compliment the Senator. The President, in May 1969, announced that it was the intent and the purpose of the Government of the United States to disengage from the war in Vietnam. It was at that point that an official policy decision was made by the Chief Executive. Without regard to the past, which he inherited, the President announced a new policy, and from that day on, there should have been and is a change in the responsibilities of this Nation.

The responsibility now is, as the President has put it, an orderly withdrawal. The amendment that the Senator offers

would, first, provide accelerated, and systematic, withdrawal; second, it would not compel young men to serve in combat at a time and in a place where the Chief Executive, the Commander in Chief, has announced that the official policy of the country is to get out.

I think the argument of the Senator from Wisconsin is unanswerable that if, out of 700,000 nondraftees in the Army and 200,000 in the worldwide Marines, we cannot provide 1,700 volunteers for December of 1971 and 900 subsequently, then there is something wrong with the total military establishment, and indeed with the country.

The Senator's argument has answered the points that have been raised. This proposal would not dismember the Armed Forces. It would not throw the military manpower policy into confusion.

It does one simple thing: It says that if you are drafted, you will not have to go to Vietnam, for combat purposes. The administration, itself, says there is a difference between what they call logistical support and combat support. In fact, one of the arguments made by the administration for a residual force in Vietnam is that it would not be for combat, but, instead, would be for backup purposes.

I would hope the Senate would listen to the persuasive arguments of the Senator from Wisconsin. His arguments are unanswerable.

Mr. NELSON. I thank the Senator from Minnesota.

The purpose of the draft, if it has any purpose at all, is to implement national policy; and the national policy is to get out. So the draft for combat service should terminate at least by the end of December of this year.

Mr. STENNIS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Mississippi has 3 minutes remaining.

Mr. STENNIS. Mr. President, I must sharply challenge the figures as used—in good faith, I am sure. I will have to be exceedingly brief.

I have in my hand a memorandum which I insisted be accurate, and I think it is. It shows that in December 1971 we will have to have 13,700 replacements, rather than 1,700 men.

I invite the attention of the Senate to the number of men leaving Vietnam every month under 12-month rotation and coming home. In May 1972 it will be at the rate of 21,200. That is one-twelfth, not of those who are there, but of those who were there when they came a year before.

The President's net withdrawal rate is 14,300 per month now. If this continues, in May of 1972 there will be a need for 6,800 men to be sent there as replacements. This is assuming a 14,300 withdrawal rate and the rotation I have described. 5,000 of the 6,800 men will have to be in the Army. These are official figures, taken from the record, assuming the 14,300 monthly withdrawal rate and the rotation rate.

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

Mr. STENNIS. I do not have the time to yield.

This is just the calculation from these records.

I repeat that in May 1972, we will have to have 5,100 men going into the Army as replacements in Vietnam.

Those are just the hard facts of life, and they are based partly on the fact that we withdraw now for replacement not at the rate of one-twelfth of those who are there but one-twelfth of those who were there 1 year ago, and that is when the 1 year started running.

This would be an impossible situation we would be called upon to meet. That is why I said it would disembowel the military units there and would make it impossible for any military commander to operate. If we want to do this, just throw in the sponge and kiss it goodbye. I wish I did not have to take that position, but the hard facts of life require it.

I assume that my time is up, Mr. President. I yield to the Senator, if I have time.

Mr. NELSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Mississippi has 1 minute remaining. The Senator from Wisconsin has 6 minutes remaining.

Mr. NELSON. For the purpose of the record, the Senator and I are using the same figures. The Senator is talking about total replacements in Vietnam when he refers to the figure of 13,000 plus.

This amendment does not involve that problem. I was talking about the figures furnished to my office by the Pentagon, that 1,700 combat arms replacements will be required in December. If Mr. Bunker is correct in saying, as he did a few days ago, that we can be down to 100,000 troops on May 1, 1972, that means that all we need is approximately 900 combat arms replacements. This amendment would not prohibit the sending of draftees to Vietnam. It would simply prohibit, after December 31, assigning draftees to the combat arms. That refers to infantry, armor, artillery, the combat roles. That is all.

As I said earlier, if, out of 200,000 marines and the rest of the forces all over the world in the Regular Army, we cannot get 1,700 replacements in December and cannot get 900 replacements starting in May, then the war has made pacifists out of all the professional soldiers, too—and perhaps that is a good thing.

Mr. PASTORE. Mr. President, will the Senator yield me 2 minutes?

Mr. NELSON. I will yield for a question. Is the Senator on my side or the other side? [Laughter.]

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PASTORE. I am on the side of justice.

Mr. President, I do not care about figures. I do not care about 13,400 or even two. To me, it is a matter of common-sense and compassion. How do you take a young boy out of a docile, comfortable American home and train only for 2 or 3 months to go into the elephant grass in a place he never heard of and learn to become a killer, when the policy of this

Government is to get out? I say that now is the time to put the brakes on. I do not care how it is done, but put the brakes on. I think this is a reasonable proposal.

To answer categorically the question put to me by my good friend, the Senator from Wisconsin: I am on his side.

Mr. STENNIS. I yield the Senator the remainder of my time. [Laughter.]

Mr. President, we have to come back to the figures, because that is what is necessary to make up military units, regardless of what is going to be done with them.

With respect to the requirement about replacements, the Senator has an explanation of his amendment here in which he says:

It would also cover assignment of soldiers with other Military Occupational Specialties to combat units in which they would be likely to become involved in actual combat.

So we would have boys over there from one side of a street in a neighborhood who are going to be subject to going into these combat units. Under this amendment, a boy's neighbor across the street could be there, but he would not be sent into combat.

Where is the fairness of that? What reason can be given for making this arbitrary discrimination on the floor of the Senate, when we are not going to the bottom of the real problem in this amendment? This is a makeshift proposition which discriminates against the boy who is already there and assigned to a unit.

The PRESIDING OFFICER. The Senator's time has expired.

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

Mr. NELSON. I yield the Senator from Rhode Island the remainder of my time.

Mr. PASTORE. If the question is being asked of me, the answer is very simple. Not only would I not send that boy there; I would bring his neighbor home—and the quicker the better. It is an albatross around our necks and has been for a long, long time, and we have been following the wrong policy.

The time has come for America to get out, because Vietnam, whatever good we intended to do, is doing more harm here at home. It has our country divided, it has our country frustrated, and the time has come for us to get out of Vietnam, and we will all be better off.

Mr. STENNIS. Mr. President, will the Senator yield for a question?

Mr. PASTORE. If I have the time, I will yield.

Mr. NELSON. Mr. President, I yield the remainder of my time to the Senator from Rhode Island.

Mr. STENNIS. With respect to the Senator's argument about bringing them all home, of course, it would not apply under this amendment; and his argument about bringing them all home would leave the man already subject to combat, who lives on the same street as the other fellow, still subject to combat.

Mr. PASTORE. We have been trying for a long, long time to be heard. We have been talking to a deaf ear under the previous administration and now under this administration. This is one way to get the war stopped.

Mr. HUMPHREY. Mr. President, I commend the distinguished Senator from Rhode Island (Mr. PASTORE) for his remarks.

May I say to all Members of the Senate, as one who has been deeply involved in this whole issue, this is the first step we can and must take.

Mr. PASTORE. To get the war stopped.

Mr. HUMPHREY. To get the process of disengagement really underway and to have Congress give a sense of direction to the President. The President has been making withdrawals. Our amendment would not change the pace of those withdrawals. It would assist disengagement in an orderly fashion.

This is a test vote as to whether this Congress really means business to get out of Vietnam and have a program of disengagement.

Mr. THURMOND. Mr. President, passage of the pending amendment to prohibit the assignment of draftees to Vietnam after December 31, 1971, would set back or wreck the Vietnamization program and bring confusion and new problems to our own Army.

Mr. President, I would like to list six reasons why this amendment should be defeated and comment briefly on each point.

First, the flow of volunteers into the Army and other services would drop sharply if draftees are excluded from assignment to a combat skill role in Vietnam. This development would obviously hamper attainment of a zero draft or volunteer armed forces status.

The Army alone estimates a 60-percent drop in volunteers should this amendment pass and the other services would suffer as well. Men volunteer today in order to avoid being drafted. Once draftees are exempted from assignment to combat skill slots in Southeast Asia the incentive to volunteer would be gone.

Second, this amendment says draftees cannot be assigned to "a combat role in Southeast Asia." Thus, the President's constitutional duty as Commander in Chief would be muted in the event of an attack on U.S. forces presently located in this area. Further, some unforeseen situation may require a new deployment in Southeast Asia which even the advocates of this amendment would consider clearly in the national interest.

Third, passage of this amendment would establish two classes of soldiers in the ranks of our Army. One could serve in Vietnam, the other could not.

The morale problem associated with such a situation would be dangerous to the health of all our services. Unit integrity would be lost as any units which the President may wish to deploy would have to be cleared of draftees. Numerous other problems would develop.

Fourth, exclusion of draftees for assignment to a combat role in Vietnam would establish a bad precedent. Tomorrow's servicemen may expect similar treatment should the United States become embroiled in some emergency action elsewhere. This trend could result in increased politics among military dissenters and impress men with the idea that they and not their Government

would be the judge of combat commitments.

Fifth, the now successful Vietnamization program would be set back because U.S. personnel training our allies in Vietnam would not receive adequate support. The Army estimates it could not supply the necessary replacements in the combat skills under such a restriction as imposed by this amendment.

Not only would the management of the Vietnamization program suffer but the safety of the declining U.S. troop forces there could be jeopardized in the event of an enemy attack.

Sixth, since replacements for the combat skills come mainly from the draft, the Army reports it would have to deny rotation home to those men now in Vietnam who have served their tour there.

Presently the U.S. plans to have around 184,000 men in Vietnam by the end of this year. Even with this small a force, rotation support personnel are still needed.

Mr. President, this amendment would tie the hands of the President of the United States. It would throw into disarray his Vietnamization and force reduction program which he has faithfully followed to date. It would wreck the present volunteer intake and establish two classes of soldiers. It would almost be like having no Army at all if we operated under a restriction such as this amendment would impose. I urge my colleagues to defeat this proposal.

Mr. STEVENSON. Mr. President, although I sympathize with the intent of Senator NELSON, I am not at all sure his amendment is the appropriate vehicle to accomplish that intent.

The Nelson amendment would prohibit the nonvoluntary use of draftees in combat units in Vietnam after December 31, 1971. The argument is that draftees have been conscripted against their will to fight a war that we should no longer be fighting.

I favor ending the draft as soon as possible, perhaps as early as this June 30, and conversion to a volunteer army. I also support the Hatfield-McGovern amendment, which would set an early date for the withdrawal of all U.S. forces from Vietnam.

As much as I sympathize with Senator NELSON's intentions, I do not think it a good precedent to legislate differences in military functions between enlisted men and draftees. I do not believe the Congress should attempt to legislate the Army's deployment of manpower, and I fear that this amendment would induce many young men to avoid any risk of combat by waiting to be drafted. By penalizing volunteers, it would discourage voluntary enlistments, and quite possibly increase the draft calls.

Draftees have fought in combat in all other wars. If a future emergency forces us to reinstate the draft, I would expect draftees to serve in combat units again. Congress can and should reassert its rightful authority over foreign affairs, but not by institutionalizing inflexibility in military manpower utilization.

This amendment obscures the fundamental issues. It does not end the war, reduce troop requirements, end the draft or convert to a volunteer army. Those are

the real issues, and then can be faced by the Senate in the next month.

Mr. MONDALE, Mr. President, past several weeks have brought new evidence—if any were needed—of how much the war in Indochina has scarred us as a people.

There was the complex tragedy of the trial of Lieutenant Calley, more mass marchers for peace around the country, and an effort to disrupt the Government in Washington.

But I was particularly struck by another, relatively quiet event. It was the solemn procession of Vietnam veterans past the Capitol grounds to throw away their medals. These young men have come to hate this war so deeply that they disowned honors won by risking their lives for their country.

This is what we have come to.

Our losses of war are not only 50,000 lives and billions wasted. The casualties have also been trust and pride and confidence—the basic strengths that nourish America's unity.

And now, amid all the embitterment and division brought by the war, the Senate comes to debate the draft.

We are asked to decide fateful questions of citizenship and responsibility, at a time when so many citizens feel their responsibility is to end the war rather than sustain it.

We are asked to summon young men to play out some final bloody act in the tragedy, at a time when 70 percent of the American people want no more of our sons to die in Indochina.

I cannot vote that summons.

So long as this war continues to divide America and squander her resources, I will oppose an extension of the draft.

At the same time, however, I do not believe the Congress can now make a sober and fully dispassionate decision regarding alternatives to the draft, such as a volunteer army.

My vote against extension of the draft, therefore, is not an endorsement of an all-volunteer force. I have serious reservations about an all-volunteer army.

But I will give this and other alternatives the most thorough examination as the Senate continues in the months ahead to consider the future shape of military service.

In summary, my position on the issues now before the Senate is as follows:

First, I oppose extension of the draft as long as the war continues. If the administration truly wants to end this war, there will be no immediate military need for the manpower provided by extending the draft at this point.

Second, if some extension of the draft should pass the Senate, I will support an amendment to prevent any more young men being sent to the war in Southeast Asia unless they volunteer.

Though they are only 25 percent of the total army, draftees have been 70 percent of the hard-core combat forces in Vietnam.

Draftees have been 57 percent of the total casualties in Vietnam.

The death rate among draftees in 1970 was twice the rate for nondraftees.

The burden borne by draftees in this war has been singularly cruel and unusual. It must be stopped.

Third, if the draft is extended despite opposition, I will support legislation offered by Senator KENNEDY to eliminate certain inequities in the present system. Specifically:

To establish a ceiling on draft calls and to reassert congressional authority over the draft.

To broaden the definition of conscientious objectors to conform to the Supreme Court's decision in *Welsch against U.S.*, and to restore the Justice Department's role in reviewing conscientious objectors cases.

To provide new legal rights to registrants, including the right to counsel and the right to present witnesses at all selective service proceedings.

To prohibit by law the use of the draft as a punishment for protest activities.

To eliminate previous legal restrictions on judicial review of questions of law in classification proceedings.

Finally, I want to pose questions which have troubled me most about an all-volunteer army, and which have persuaded me that the eventual replacement for the present system of military service will demand far more attention than we have given it so far.

Will an all-volunteer force, as now envisioned, be an army of the poor and the black?

Testimony by the Department of Defense, and the overwhelming evidence from campuses across the country, indicates that college graduates do not want to serve in the military.

College graduates simply prefer other alternatives to a career in the Army. Yet other alternatives are not available to many noncollege educated young Americans. For example, although the unemployment rate for our overall population stands at the intolerable level of 6.1 percent, unemployment among black youths has reached 30 percent. For white youths who are not in college, the unemployment rate is twice the national average. What kind of options are really open to these people?

If military pay is to be used as an incentive for volunteers, if even present pay is better than the income of the poor, who will volunteer for the Army? Will it not be those with the least chance for a decent life in this country?

And will that be a just sharing of the citizens responsibility for national defense?

Supporters of a volunteer army say the underprivileged will be better off in the military, receiving higher salaries and better training than they could find elsewhere. They say all Americans deserve freedom of choice.

But what is the meaning of freedom of choice to a volunteer who is part of the 30-percent unemployment figure. How much freedom of choice do we have in this country for those without an education and without a job?

If supporters of a volunteer army are serious about freedom in this case, I think they should be sure volunteers really have the option to choose between the army and another job or an education. Unless realistic alternatives to military service are available to these young

men, it seems to me that they will have neither freedom nor choice.

Then there are questions regarding the political implications of an all-volunteer force.

During the Vietnam War, the presence of draftees has insured that the Army contains a civilian-oriented, skeptical prize-winning journalist who exposed My Lai to the public, wrote me about his experience with that incident:

I interviewed perhaps fifty former members of Charlie Company while researching my newspaper articles and book on My Lai, and without fail found that the only honest information about what happened that day came from draftees. I'm convinced that had most of the young men at My Lai been career soldiers, the story never would have been developed.

Col. Anthony B. Herbert, a highly decorated career Army officer echoes Mr. Hersh's findings. Speaking from his own experience in the military, Colonel Herbert wrote me what he thinks would happen if a voluntary army replaced the draft:

Eliminate these internal sets of checks and balances (the draft) and you will, I believe, end up with a professional career oriented group who will attack every problem in light of what is best for the Corps rather than for the country at large. The officer corps would soon become a military aristocracy. Those of us present in the Officer Corps today have witnessed a so-called professional group among us who attempt to do exactly just that in the name of loyalty to the Officer Corps and/or army, rather than to their country. It was not a professional army officer or even a professional enlisted man who brought My Lai to the attention of the U.S. public. There have been other similar incidents, maybe not on so large a scale, which have occurred throughout Vietnam. Many I have seen reported in Inspector General files, Criminal Investigative files, and news media. None by the so-called "professional types." If there had not been draftees and other non-professionals at My Lai, I say the U.S. public would still not know of it.

These facts and testimony seem to me to raise grave doubts about the potential injustices and abuses of an all-voluntary military force.

George Bernard Shaw once said:

Liberty means responsibility. That is why most men dread it.

The Senate's decision on the draft is one of those dreadful responsibilities.

I believe we have an obligation to stop the conscription of our young men to fight a senseless war. But I believe we have an equally pressing responsibility to see that we do not replace the present system with something potentially worse.

And I also believe that the citizens of America—all its citizens, rich and poor—have a responsibility to the national defense and well-being of their country.

We must not magnify the tragedy of Vietnam by letting its cruelty and injustice obscure that responsibility.

Many of those who have opposed extension of the draft have done so with enormous energy, determination and a true spirit of public service. I would hope those qualities are brought to bear in the months ahead for construction of a just and workable alternative for service to our Nation.

I ask unanimous consent that certain letters be printed in the RECORD.

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

APRIL 5, 1971.

Senator WALTER F. MONDALE,
Capitol.

DEAR SENATOR MONDALE: My beliefs about the merits of a draft against an all-volunteer Army is an extremely personal, based on my work in connection with the My Lai expose. I interviewed perhaps fifty former members of Charlie Company while researching my newspaper articles and book on My Lai, and without fail found that the only honest information about what happened that day came from draftees. The 'lifers' and officers simply refused to tell the truth.

I'm convinced that had most of the young men at My Lai been career soldiers the story never would have been developed. I can make no general conclusions about the merits of a draft vs. an all-volunteer Army. I don't know all of the facts. But I do know the thought of having only careerists in the service leaves me with dread.

I'm not sure if this helps or not.

SEYMOUR M. HERSH

DEPARTMENT OF THE ARMY,
Fort McPherson, Ga., April 5, 1971.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: In response to your letter dated March 30, 1971, concerning VOLAR I must preface my remarks with the fact that our Chief of Staff has already committed us to the support of replacing our present force with an all-volunteer one. As a subordinate of course I will support this concept and do my utmost to complete the mission, i.e. at present I am Reenlistment Officer Third U.S. Army which is at present in first place of all Armies in CONARC by reenlistment rate. However, I feel that loyalty to my country must over ride loyalty to a Chief of Staff or any other single person or group. I have been asked a straightforward question. I would consider it disloyal to my country as well as lacking in moral courage to give any answer other than a straightforward one in return. With this in mind, if the answer below is not sufficient or needs clarification please feel free to call on me for further response.

The United States is not a professional militaristic nation. I mean in effect we are not directing expansion or conquest via an aggressive military policy. Our Army has been directed throughout our history as a defensive arm only.

In the defense of a free nation, a nation "of the people, by the people" all segments of that nation should participate in its defense. In a free nation's Army, if that nation is to remain a democracy an Army should reflect in almost equal portions those same percentages of all segments as are present in its overall population, Catholic, Protestant, Jew, other, white, black, yellow, red other, plus all social class levels etc., etc. Regardless of what the VOLAR Committee has written or believes just the fact that this could possibly not be the case should deter us from adopting the VOLAR concept.

As present in the U.S. Army with all segments represented, especially non-professionals in the sense of non-volunteers, or volunteers only for short periods rather than intended careerists the Army has an inherent set of checks and balances so necessary for a free nation in maintaining civil control of its armed might.

Eliminate these internal sets of checks and balances and you will, I believe, end up with a professional career oriented group who will attack every problem in the light of what is best for the Corps rather than for

the country at large. This is no figment of my mind, I assure you. The Officers Corps would soon become a military aristocracy. Those of us present in the Officers Corps today have witnessed a so called professional group among us who attempt to do exactly just that in the name of loyalty—the Officers Corps and/or Army, rather than to their country. It was not a professional army officer or even a professional enlisted man who brought My Lai to the attention of the U.S. public officials. There has been other similar type incidents, maybe not on so large a scale, which have occurred throughout Vietnam. Many I have seen reported in Inspector General files, Criminal Investigative files, and news media. None by the so called "professional types." If there had not been draftees and other non-professionals at My Lai, I say, the U.S. public would still not know of it. A careerist is very reluctant to speak out and terminate a career—which is the case even in today's Army. The Army professionals have much power which can be brought to bear internally in order to prevent those within a command from speaking out, which is why we hear about these things many times only after one of the non-professionals is out of service. Just knowing these individuals are in a command may times prevents crimes from being committed by those who fear exposure from such "left wingers," "rabble rousers" and "hippy types."

Mr. Mondale, please feel free to use my remarks however necessary. Mr. Peterson stated that it has been difficult to obtain permission from other officers to be quoted. Just this fact alone should exemplify what I have stated concerning the "professional" in the sense I feel we would have them in an all-volunteer Army. Because my views are not single. It is the prevalent view among my military associates who I assure you are many of our finest Army officers today with tremendous records. That I chose to speak out, many feel, will result in great pressures being brought to bear upon my family and self. All I can reply is that I feel that someday a much greater pressure, the conscious, will be brought to bear upon those for what they know and yet fail to say.

Finally in order to get a little more exact idea of some of the results of professionalism I refer you to the Franklin Institute Research Laboratories (FIRL) Career Motivation Study, Junior Officer Retention, DA Pamphlet 600-20, dated August 1969, in order that you can read directly statements of many young officers on their observation of our so called "professional" segment of the Officers Corps.

I thank you for your letter and the opportunity to express this view to so distinguished a panel, with the possibility of effecting such action before it is too late.

Sincerely,

ANTHONY B. HERBERT,
Lt. Col., Infantry.

Mr. BUCKLEY. Mr. President, although I sympathize with the objective of the Nelson amendment, I will vote against it for the reason that its enactment could severely impede the early phasing out of the draft in favor of an all-volunteer military. To my mind, this latter objective is so important that all other considerations should be subordinated to it.

As others have stated today, the net effect of enacting the Nelson amendment at this time would be to provide draftees with a special immunity with regard to the Vietnam conflict. This in turn would create a positive inducement for young men to await the draft rather than volunteering for duty in one of the armed services. Yet it is quite clear that

the historic objective of the debates now in progress on the extension of the Selective Service Authority reflects a determination by the Congress to join with the administration in phasing out the draft and in returning to the concept of all-volunteer forces as soon as that transition can be prudently made. In my judgment, such a short-term dislocation of the normal volunteer response to the proposed increase in pay and other benefits could make it doubly difficult to determine the effectiveness of such special inducements and could unfairly handicap the plan to achieve all-volunteer forces.

There are, of course, other practical obstacles which would reduce efficiency and impair the morale of career servicemen at precisely the time when we need to make every effort to achieve a smooth transition.

Specifically, it must be understood that to try to make up the deficiency in combat forces—infantry, artillery, and so forth—which would be created by eliminating draftees from service in Vietnam would require time-consuming and costly retraining of career personnel now assigned to other duties, and would result either in the disruption of existing units—thus badly impairing their effectiveness—or, in the alternative, in the reassignment to Vietnam of men who had already served a tour of duty in that conflict.

As American forces in Vietnam will have been reduced by the end of this year to a point where they can no longer engage in active ground operations, casualties can be expected to be reduced virtually to the vanishing point. Thus assignment of draftees to this area after the first of the coming year would have little more than a symbolic importance, as the actual hazards to which draftees would then be subjected would not be materially greater than those to which men in the armed services are subjected in the course of their ordinary training and service. I do not mean to minimize the incremental danger to those who would, in fact, be assigned for duty in Vietnam, but I do say that the overriding need to make every effort to assure the success and early adjustment of all-volunteer forces must outweigh these other considerations.

Finally, although I have in the past urged that draftees be removed from involuntary involvement in combat duties in Vietnam at the earliest feasible date, I have not considered that it was the prerogative of the Congress to dictate to the Commander in Chief as to how he should dispose of the troops under his command. I would not at this time wish to mandate such restrictions when, as I have already indicated, I feel that the net result might be to prolong the draft and jeopardize the success of the move to an all-volunteer military.

The PRESIDING OFFICER (Mr. HUGHES). All time on the amendment has now expired.

Mr. NELSON. Mr. President, I ask for the yeas and nays on my amendment. The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous unanimous consent agreement,

the Senate will now proceed to vote on the amendment of the Senator from Wisconsin (Mr. NELSON) No. 105.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. TOWER (when his name was called). On this vote I have a pair with the distinguished Senator from Maryland (Mr. MATHIAS). If he were present and voting, he would vote "yea;" if I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. EAGLETON (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Indiana (Mr. BYRD). If he were present and voting, he would vote "yea;" if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Alabama (Mr. ALLEN), the Senator from Michigan (Mr. HART), the Senator from Hawaii (Mr. INOUE), the Senator from Washington (Mr. JACKSON), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), and the Senator from Missouri (Mr. SYMINGTON) are absent on official business.

I further announce that, if present and voting, the Senator from Michigan (Mr. HART) and the Senator from Missouri (Mr. SYMINGTON) would each vote "nay."

I further announce that, if present and voting, the Senator from Utah (Mr. MOSS) would vote "yea."

On this vote, the Senator from South Dakota (Mr. MCGOVERN) is paired with the Senator from Washington (Mr. JACKSON).

If present and voting, the Senator from South Dakota would vote "yea" and the Senator from Washington would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Hawaii (Mr. FONG), the Senator from Wyoming (Mr. HANSEN), the Senator from Maryland (Mr. MATHIAS), and the Senator from Iowa (Mr. MILLER) are necessarily absent.

The Senator from Utah (Mr. BENNETT) is absent on official business.

The Senator from New York (Mr. JAVITS) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Iowa (Mr. MILLER) and the Senator from South Dakota (Mr. MUNDT) would each vote "nay."

The pair of the Senator from Maryland (Mr. MATHIAS) has been previously announced.

The result was announced—yeas 21, nays 52, as follows:

[No. 75 Leg.]

YEAS—21

| | | |
|-----------|-----------|-----------|
| Brooke | Humphrey | Percy |
| Burdick | Mansfield | Proxmire |
| Cranston | Mondale | Ribicoff |
| Fulbright | Muskie | Schweiker |
| Gravel | Nelson | Stevens |
| Hatfield | Pastore | Tunney |
| Hughes | Pell | Williams |

NAYS—52

| | | |
|--------------|---------------|-----------|
| Alken | Dominick | Packwood |
| Allott | Eastland | Fearson |
| Baker | Ellender | Prouty |
| Beall | Ervin | Randolph |
| Bentsen | Fannin | Roth |
| Boggs | Gambrell | Saxbe |
| Brock | Goldwater | Scott |
| Buckley | Griffin | Smith |
| Byrd, Va. | Gurney | Spong |
| Byrd, W. Va. | Harris | Stennis |
| Cannon | Hollings | Stevenson |
| Case | Hruska | Taft |
| Chiles | Jordan, N.C. | Talmadge |
| Cook | Jordan, Idaho | Thurmond |
| Cooper | Kennedy | Weicker |
| Cotton | Magnuson | Young |
| Curtis | McClellan | |
| Dole | Montoya | |

PRESENT AND GIVING LIVE PAIRS AS PREVIOUSLY RECORDED—2

Tower, against.
Eagleton, against.

NOT VOTING—25

| | | |
|----------|----------|-----------|
| Allen | Hart | McIntyre |
| Anderson | Hartke | Metcalfe |
| Bayh | Inouye | Miller |
| Bellmon | Jackson | Moss |
| Bennett | Javits | Mundt |
| Bible | Long | Sparkman |
| Church | Mathias | Symington |
| Fong | McGee | |
| Hansen | McGovern | |

So Mr. NELSON's amendment (No. 105) was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SCOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives was communicated to the Senate by Mr. Hackney, one of its reading clerks, announced that the House had passed House Joint Resolution 34, a joint resolution to provide for the designation of June 3, 1971, as "National Navy Wives Club of America Day," in which it requested the concurrence of the Senate.

The message also announced that the

House had passed Senate Joint Resolution 29, a joint resolution to provide for the designation of the calendar week beginning on May 30, 1971, and ending on June 5, 1971, as "National Peace Corps Week," and for other purposes, with an amendment, to strike out the preamble, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bill:

H.R. 4209. An act to amend the Revised Organic Act of the Virgin Islands.

The enrolled bill was signed by the President pro tempore today.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 34) to provide for the designation of June 3, 1971, as "National Navy Wives Club of America Day", was read twice by its title and referred to the Committee on the Judiciary.

PROGRAM

Mr. SCOTT. Mr. President, will the distinguished majority leader advise the Senate as to the program for the remainder of the week?

Mr. MANSFIELD. I am delighted to do so.

As the distinguished minority leader will recall when we discussed the Calendar, at the present time there are five items on the Calendar.

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Senators will return to their seats.

Mr. MANSFIELD. Mr. President, there are five items on the Calendar, one of which is pending, another of which has just been reported and placed on the Calendar; and on the others there are routine "holds," requiring scheduling and later action by the Senate.

Tomorrow there will be at least two votes; one at 1 p.m. and another not later than 6:30 p.m. There may well be additional votes. Today we had anticipated only two votes and so far we have had two and there will be at least one more.

In view of the fact that there are no unanimous-consent agreements assuring votes for Thursday, which was the date originally set for the Senate to adjourn over the Memorial Day weekend, and because the joint leadership does not desire to schedule Senate sessions merely to mark time and for the sake of appearance, will call up the House concurrent adjournment resolution at this time and ask that it be appropriately amended.

ADJOURNMENT OF THE TWO HOUSES OF CONGRESS FOR THE MEMORIAL DAY WEEKEND

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a

message from the House of Representatives on House Concurrent Resolution 316.

The PRESIDING OFFICER (Mr. HUGHES). The Chair lays before the Senate House Concurrent Resolution 316, which will be stated.

The legislative clerk read as follows:

H. CON. RES. 316

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Thursday, May 27, 1971, they stand adjourned until 12 o'clock meridian, Tuesday, June 1, 1971.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the concurrent resolution.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MANSFIELD. Mr. President, I send to the desk two amendments and ask that they be stated.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

On Page 1, line 2, strike out the words "two Houses adjourn" and insert in lieu thereof "House of Representatives adjourns".

On Page 1, line 3, after the comma following "1971" insert "and when the Senate adjourns on May 26, 1971,".

The PRESIDING OFFICER. The question is on agreeing to the amendments. The amendments were agreed to.

The concurrent resolution (H. Con. Res. 316) as amended, was agreed to, as follows:

H. CON. RES. 316

Resolved by the House of Representatives (the Senate concurring), That when the House of Representatives adjourns on Thursday, May 27, 1971, and when the Senate adjourns on May 26, 1971, they stand adjourned until 12 o'clock meridian, Tuesday, June 1, 1971.

The title was amended so as to read: "Providing for the adjournment of the House of Representatives from May 27, 1971, and the Senate from May 26, 1971, until June 1, 1971."

PROGRAM CONTINUED

Mr. SCOTT. Mr. President, if the distinguished majority leader will yield further, I know he will certainly join with me in urging all Senators to be present tomorrow because there are at least two and perhaps more important votes coming up. It is most urgent that we dispose of those matters tomorrow in accordance with unanimous consent agreement.

Mr. MANSFIELD. Mr. President, I join the distinguished minority leader wholeheartedly in what he has just advocated. The joint leadership sent telegrams last night asking all Senators to be present. The result is that today there are 75 Senators present—at least 75 responded to the last rollcall. I am not happy that only 75 Senators are present to vote on amendments to this most important bill. I would hope for a greater attendance for the votes tomorrow and an even greater attendance upon the Senate's return from its 5-day recess.

Mr. President, the meaning of the resolution we have just passed is that at the conclusion of business tomorrow, Wednesday, the Senate will go over until the following Tuesday at 12 noon.

The PRESIDING OFFICER. The Senator is correct.

THE MILITARY SELECTIVE SERVICE ACT

The Senate resumed the consideration of the bill (H.R. 6531) to amend the Military Selective Service Act of 1967; to increase military pay; to authorize military active duty strengths for fiscal year 1972; and for other purposes.

Mr. KENNEDY. Mr. President, I call up amendment No. 74 to H.R. 6531, to delete from the bill section 203, providing for a special combat enlistment bonus.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

AMENDMENT No. 74

On page 38, beginning with line 6, strike out all down through line 6 on page 39.

Renumber sections 204 and 205 as sections 203 and 204, respectively.

On page 40, strike out lines 6 through 10, and insert in lieu thereof the following:

"Sec. 205. The provisions of this title shall become effective on the first day of the first calendar month following the month in which this Act is enacted."

The PRESIDING OFFICER. How much times does the Senator yield to himself?

Mr. KENNEDY. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, this provision, requested by the administration as part of its move toward a volunteer Army, is the most repugnant aspect of the legislation before us.

This provision authorizes the Secretary of Defense to pay a young man up to \$6,000 to enlist in combat divisions. Although the Secretary has stated his intention to limit his offer to \$3,000, on several occasions, the Department has emphasized that the authority under this language permits payment of \$6,000 at any time to an enlistee.

It is a lure, a blood bonus, to induce young men to sign up for combat service. I ask the Senator from Mississippi who he believes will be attracted by this offer of a \$3,000 or \$6,000 bounty for enlistment. I use the word "bounty" because a bonus of this size for combat enlistment is more than reminiscent of the Civil War bounties that caused riots in New York City.

In 1863, James G. Blaine explained that:

The bounty of \$300 was needed for the protection of The Great "Middle Interest"

of society—the class of which the business and the prosperity of the country depend.

That is precisely the reasoning behind this provision. It coerces only the poor. It condemns them to combat service. One historian, Fred A. Shannon, said of the 1863 Law:

With the rod of conscription in one hand and an open purse in the other, the nation set about to coerce or persuade all but the favored few to join the colors. The few could replenish the purse instead.

The law was signed on March 3, 1863. On July 11, the first lottery was held and New York was assigned a quota of 33,000.

Government recruiters began wandering through the streets trying to fill their quotas. "Here's three hundred bucks, sign on the dotted line," was their pitch.

Two days later, the poor answered the bounty with blood on the streets of New York. A cry went up, particularly among the immigrant Irish who then formed a quarter of the city's 800,000 population, a cry of:

A rich man's war, a poor man's fight.

On July 13, an estimated 10,000 persons formed a mob that burned and looted and fought the police. Governor Seymour declared the city to be in a state of insurrection. Five regiments of troops were called.

Four days of rioting left 500 dead and an estimated 1,000 wounded.

After the War, Brig. Gen. James Oakes, reported on the operation of the draft and recommended that any future draft "dispense with Government bounties altogether—and, instead, to increase the regular pay of the soldier to such an extent as would enable him with prudence and economy to support his family or dependents while in the Army."

If it was apparent to the citizens of the Civil War era that a bounty was designed to make the poor do the rich man's fighting, that same reasoning behind the combat enlistment bonus will not escape the public today.

Three hundred dollars may not seem an appreciable sum today, but in 1863, the weekly wage for a laborer was under \$20.

Today, the weekly wage may be perhaps 10 times greater, but the Secretary of Defense is prepared. His intended bonus is 10 times what it was then. And he can even double that sum if he does not get enough men the first time around.

This Nation presumably learned the lesson of the bounty in the Civil War. Neither in the draft for World War I nor in any law since then, has Congress looked to an enlistment bonus to entice men into the Armed Forces.

This proposed bonus violates that tradition. It seeks not only to entice men to join the military but to assume the greatest risk of death as well.

Once more, I would urge the Senate to join with me in this amendment and reject a system that reeks with class injustice. The House of Representatives wisely deleted this provision in the course of debate on the current bill and I would urge the Senate to do the same.

Who is going to accept a \$6,000 combat enlistment bonus?

Not the sons of the middle class and surely not the sons of the wealthy. Their

futures are secure. They have the potential for earnings that far outdistance \$3,000 or \$6,000. And they know that the bonus carries with it the threat of death, the threat of losing an arm. They know and they will not go.

Who will go? The Census Bureau and Labor Department can tell you.

The Census Bureau reported last week that the Nation's poor now number 25.5 million, an increase of 1.2 million over 1969. There are 17.5 million whites, 7.7 million blacks. One in 10 white Americans live in poverty, one in three black Americans.

They will go because \$3,000 or \$6,000 may mean more money than they could ever hope to see in a single sum.

The Labor Department also will tell you who will go. They reported a 6.1 percent unemployment rate in the Nation last month.

Those are the groups who will be tempted by this combat enlistment bonus. They are the ones who will take the lure.

Army recruiters can set up shop outside a State employment office. They can follow the unemployment statistics and decide where to start their volunteer Army campaign.

I wonder whether we finally are not seeing this administration's answer to both the unemployment and the poverty issues.

A bonus to join the combat divisions of the military, a bonus that is surely aimed at the poor. I wonder whether this is their answer to problems that they have failed to exhibit the will to resolve.

In the House Armed Services comment on why it rejected the combat enlistment bonus, on page 39 of the House report, it is stated:

The committee was concerned that the language of the Department's proposal, as submitted, was so broad that there was no assurance it would be used solely for the stated objective. As submitted by the Department of Defense, the bill could have been used to provide pay raised for almost any segment of the enlisted population and could have resulted in considerable change in traditional reenlistment bonus procedures without proper review by the Congress.

In addition, the committee was concerned about the effect of the use of such authority at a time when assignment of draftees to the combat arms is continuing. The committee believes that more thought would have to be given to the effect of the bill in the case where two men would be serving in the infantry side by side, and one, who is an enlistee, is getting an extra thousand dollars a year while the other, who is inducted, gets no such additional amount.

As a consequence of the foregoing reservation, the committee rejected the administration's request for this authority.

The recent vote here on the floor, rejected the suggestion of the distinguished Senator from Wisconsin (Mr. NELSON) that we limit combat duty to volunteers. As a result draftees still will face combat action. Draftees will be getting paid at a certain level and enlistees will be getting anywhere from \$1,000 to \$2,000 a year more yet they will be battling in the same trench, facing the same threat from the enemy, and with the same risk of death or dismemberment.

The chairman calls this a modest experiment and indicates less than whole-

sale endorsement of this concept as the ideal manpower policy of this Nation.

I can well understand why. Because I know that it conflicts with his own basic reluctance to see this Nation's military forces rely on the principle of bounties and bonuses.

I also would remind the chairman that this experiment has been tried before. It was tried last during the Civil War and it brought bloodshed to the streets of New York.

Before that experiment ended, several hundred were dead. A thousand injured and the city occupied by Union troops forced to leave the battlefield to restore order in New York.

I am reminded when the chairman talks of a modest experiment of the essay by Jonathan Swift, "A Modest Proposal." That proposal once more dealt with the poor but as I recall it provided for roasting of young infants as a way to meet the problem of poverty. The satirical point of the article was that the society then was unwilling to face its social evils and since it evidently had no use for the poor, Swift offered his "modest proposal" to underline this lack of concern for the poor.

Today we are faced with a similar "modest proposal" whose effects will be just as blatantly aimed at the poor as was that of Swift.

Secretary Laird concluded his opening statement before the Senate Armed Services Committee this year with the comment:

What you are considering, Mr. Chairman, is a legislative proposal of the highest importance. People, not arms or equipment, not buildings or computers, not any of the hardware requirements of defense, are the priceless vital asset of our national defense.

A wise, a just, and a fair manpower policy is indeed the keystone to our national security.

But I cannot but feel that a proposal to pay young men a \$3,000 or \$6,000 bonus to enlist in combat units is neither wise, nor just nor fair.

It reflects the underlying philosophy of any mercenary Army. First, it pays men to enlist; second, it will attract mostly the poor; and third, it places them where the risk is greatest, in the combat trenches.

Mr. President, I would call attention to section 1C of the Military Selective Service Act of 1967 which states the intent of Congress:

The Congress further declares that in a free society the obligations and privileges of serving in the Armed Forces and the Reserve components thereof should be shared generally, in accordance with a system of selection which is fair and just, and which is consistent with the maintenance of an effective national economy.

Mr. President, a combat enlistment bonus which has in the past and will today be seen as an effort to induce the poor to bear the greatest burden of combat duty directly conflicts with the intent of Congress as stated in the previous passage.

It assures that the obligations of military service will not be "shared generally" but will fall on the least benefited of our society.

And again I call attention to section 8 of the act, which states:

No bounty may be paid to induce any person to be inducted into an Armed Force.

I believe that the combat enlistment bonus directly and flagrantly violates the principle that was established in every conscription law since the Civil War.

It is a bounty to free the more affluent sectors of society from the need to risk their lives in defense of the country and it is designed to give to the poor two things—\$3,000 and a rifle.

I would call the attention of the Senate to section 8 of the Military Selective Service Law of 1967. That section relates to bounties, substitutes, purchases of release—it states that:

No bounty may be paid to induce any person to be inducted into an armed force. A clothing allowance authorized by law is not a bounty for the purposes of this section. No person liable for training and service under this act may furnish a substitute for the training or service. No person may be enlisted, inducted, or appointed in an armed force as a substitute for another. No person liable for training and service under section 4 may escape that training and service or be discharged before the end of his period of training and service by paying money or any other valuable thing as consideration for his release from that training and service or liability therefor.

But I ask Mr. President, whether a \$6,000 bonus to a young man recruited from Roxbury or Brockton to induce him to enlist in combat, is not in fact a bounty, a bounty designed to replace any middle or upper class young men who might otherwise be drafted with their less affluent brothers.

Let me repeat the relevant lines:

No bounty may be paid to induce any person to be inducted into an armed force.

If not the language then surely the spirit of this legislation is violated by a combat enlistment bonus. I find it highly obnoxious to return to a system that caused riots during the Civil War. It was the system of bounties and substitutes that found recruiters wandering through the immigrant sections of our largest cities offering bonuses to the poor in order to remove the threat of the draft from the wealthy.

We would be doing the same. If any Member can explain to me why the following scene could not take place, I would be grateful. An Army recruiter sets up office each day next to the employment office and offers everyone waiting in line \$6,000, payable in 3 months, if he signs up for combat for 3 years. I find this to be a bounty in the most repugnant sense of the word.

I would like to yield, if I may, to the distinguished Senator from Oregon (Mr. HATFIELD). How much time does the Senator desire?

Mr. HATFIELD. May I have 5 minutes?

Mr. KENNEDY. I yield 5 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I rise to support the amendment presented by the Senator from Massachusetts (Mr.

KENNEDY), though perhaps for somewhat different reasons or from a different perspective.

As Senators know, I have long been on record in opposition to any conscriptive system, and I shall present an amendment at an appropriate time to abolish the entire draft system as we now know it.

But I think, in order to reach a place where we could undertake with expected success an all-volunteer Army, it is not necessary to offer the kind of incentive that is now presented in the form of a \$6,000 bonus.

I have some statistics which I would like to make available here for the RECORD, because I think the whole question of a bonus revolves around the point as to whether or not we could get sufficient manpower to go into combat areas and to fit under the so-called MOS of combat duty.

I have here statistics, based upon Pentagon figures, which I think will illustrate my position very vividly that we do not need this kind of incentive in order to achieve an all-volunteer Army. I would not want the Senate to be misled into believing that they have to vote for such a proposition as a \$6,000 bonus if they are really committed to the proposition that they want an all-volunteer military.

For fiscal year 1970, the combat arms MOS requirement of the Army was 100,000 men.

I want to make these statistics as clear and understandable as possible, because sometimes we can get lost in figures. This figure of 100,000 men would be the requirement set by the Army to fill their battle stations under their various assignments in combat areas. Taking that 100,000 figure, where did it come from? Where did we get that 100,000 figure?

First of all, we have from the Pentagon the statistic that 4,000 men indicated at the time of enlistment that they wanted this type of MOS; in other words, they wanted a combat assignment when they made their preference known at the time of enlistment.

We find that within the next 6 months following enlistment, 7,000 additional men made known that they wanted and signed up for Airborne and Special Forces, and acquired that kind of combat MOS.

Where did we get the remainder to meet the 100,000 requirement? Thus far we have a total of 11,000 who have indicated, either at the time of enlistment or later, that they wanted this type of assignment.

First of all, of the Regular Army unassigned personnel, referred to as RAU's, who did not specify at the time of enlistment—we had 72,000 such men in fiscal year 1970—40 percent, or 28,000, of those men were assigned to combat MOS's by the Army command, and the remaining requirements to fulfill the need of 100,000 combat MOS's were made up from draftees—61,000 draftees.

If we take the Pentagon statistics again for their projected needs for 1972 and 1973, we will see that only about one-half to one-third of the fiscal year 1970 combat arms MOS requirements will be

needed. In other words, only one-half to one-third of the total 100,000 figure will be needed.

Based upon this statistics, we can then, let us say, take 50 percent of the figure for true volunteers in the RAU category, and the projected needs in the combat arms MOS's could be easily met if all of the RAU's, or Regular Army unassigned personnel, were assigned to those MOS's.

Even if we took 40 percent of those men in the RAU category to fill the combat MOS requirement, we would still have one-half to three-fourths of our projected needs, and this is not taking into consideration any across-the-board pay increases which are now being contemplated; nor does it include the projected growth of the manpower pool during these years since fiscal year 1970.

But if, as the Pentagon maintains, we need further incentives, I certainly do not consider the \$6,000 combat bonus as necessary. I believe we are putting the emphasis in the wrong places.

The Gates Commission recommended a combat pay increase of \$200, and I anticipate introducing that recommendation later in the debate in the form of an amendment.

Also pending before the Senate is a substantial pay increase for our military personnel, particularly the first-term enlistee.

I believe that the pay increase alone would bring enough men into our armed forces to meet our combat needs—and all of the figures point to this conclusion.

Let me emphasize, this is not merely an opinion. This is based upon the task force reports to the Gates Commission, upon which they based their overall recommendations.

So, Mr. President, as I support the senior Senator from Massachusetts (Mr. KENNEDY) in his amendment, it may be for different reasons, but it still comes out with the same answer, which is that the \$6,000 combat enlistment bonus is not necessary to meet the objective of an all-volunteer army to which I am committed.

I thank the Senator for yielding.

Mr. KENNEDY. Mr. President, I think those statistics analyze accurately what the potential really is for filling these combat arms positions, and I thank him very much for his statement in this area. His own amendment, which will come later, would provide a pay increase of \$200, shows dramatically the difference between his proposal of a \$200 inducement and the upper limit of the pending measure, which is \$6,000 for drawing in the disadvantaged and otherwise poor people of our society. So I thank him for his helpful and useful comment at this time.

Mr. President, I should like to mention at this time what our regular procedures are for reenlistment bonuses.

To try to evaluate whether these new provisions in this legislation are really appropriate to the terms of our traditional attitude in terms of induction, as I understand it—and I will have an opportunity to talk about this with the chairman of the committee in a few moments—the present situation is as follows:

Regular reenlistment bonuses are 1 month's basic pay multiplied by the number of years of service, with the total limited to \$2,000 during a career. The average for an E-4 with under 2 years of service is approximately \$750 if he reenlists for 1 year in combat units to get that bonus.

The only other kind of provision is the variable reenlistment bonus, which is an additional amount, but this is not to exceed four times the regular reenlistment bonus. So the highest a man could go, over the period of a career, would be \$8,000. That would be available to regular Army members who reenlisted in a designated military skill—scarce specialties such as computer programming.

There has been a constant desire since the very earliest times, in terms of recruitment bonuses, to provide equitable training. This is the first departure, as I have pointed out, since the time of the Civil War for this kind of activity. As I mentioned earlier, the bonus also sets up the possibility of a draftee in Vietnam getting \$3,000 less than a volunteer in the same foxhole, thus discriminating against the draftee.

Currently, there is a \$65 a month hostile fire pay, and an income tax exemption for all military personnel in Vietnam, whether volunteer or draftee. Those are certainly very modest inducements. But I think the Marshall Commission, even in terms of this kind of inducements, has shown quite clearly in its review of the case that this additional \$65 a month combat pay—and the airborne infantry receives, I think, an additional \$12 a month—is enormously attractive to many of the disadvantaged in our society. It is quite clear that their analysis was to that effect.

Let us look a little bit at the hearings before the Armed Services Committee, when they discussed the bonus. This appears on page 668:

Mr. KELLEY. The bonus that we have proposed for the active force enlistee in the Army combat arms was as you will recall \$3,000 payable the first thousand dollars after the individual qualifies for the combat occupation specialty and the second thousand dollars a year later and the third thousand dollars the second year later.

Considering in the one case the active force member is full-time and in the other case the Reserve member is a weekend and 2 weeks in the summertime individual, we think the Reserve incentive would compare quite favorably.

The CHAIRMAN. Do you have any bonus in mind, I don't recall it, for anyone except this combat man in the Army?

Mr. KELLEY. No, sir, we do not. However, the proposed statute would give the Secretary of Defense the authority to use a bonus for other occupation specialties depending on the shortage and the criticality of the skill. But our proposal for the initial use of the enlistment bonus would pertain only to the Army combat arms, infantry, armor artillery.

The CHAIRMAN. You are not requesting any bonus for anyone in the Navy nor the Air Force?

Mr. KELLEY. No, sir.

The CHAIRMAN. Nor the Marine Corps?

Mr. KELLEY. No, sir.

So the Air Force is left out. The Air Force is involved in Vietnam, and certainly they are facing considerable pos-

sibilities of death and hardship. They are left out, and so are the Marines.

It always causes me great concern when we say—even in terms of the last debate—"We have enough Marines. Why don't they volunteer to go over there?" They are not included according to Mr. Kelley's statements before the Committee on Armed Services.

The CHAIRMAN. But you are going to have this from the beginning. You propose to start this bonus that you have just mentioned to the riflemen in the Army?

Mr. KELLY. Yes, sir.

The CHAIRMAN. For combat duty?

Mr. KELLY. That is correct. This does not preclude the possibility of appropriate incentives for Navy, Air Force or Marine personnel in the future.

The CHAIRMAN. Have you given us any amounts or scales that you would be committed to offer? Is there no limitation on the amount you would be permitted to offer otherwise?

Mr. KELLY. The dollar limitation would be \$6,000 under the statute that we proposed for the enlistment bonus.

That is what he said. It is written in the proposed legislation, the possibility of a \$6,000 bonus. They have outlined, in fairness to Mr. Kelley, that they intend to move on to \$3,000 initially; but he points out clearly here that they do have the power, and they would be willing to use that authority, to make it \$6,000, under the statute.

As a matter of fact, the chairman said:

The CHAIRMAN. That means you could increase this initial \$3,000 bonus to \$6,000, is that right?

Mr. KELLY. Under the statute, yes, but the \$3,000 was a figure considered in these terms. We think we have a responsibility to avoid overpaying an 18- or 19-year-old young man.

Is that not wonderfully gratuitous? They are trying to find out how much a person's life is worth. They do not want to overpay someone to go over. Perhaps \$6,000 is too much to pay him, because an 18-year-old cannot handle that. He can handle a rifle over there and be charged with responsibility in many respects for the lives of the people in his company. But here we have the kind of comment that I think is truly outrageous.

We think we have a responsibility to make that pay high enough that it would be a sufficient attraction.

There it is; that is the argument—"a sufficient attraction." Whom are we trying to attract? Are we going to get the sons of middle-income people or wealthy people? Is that going to be sufficient attraction for those who can go on to college or to graduate schools? Or are we going to look for some other person who feels that \$3,000 or \$6,000 is a sufficient attraction? By definition, the people affected by this monetary appeal will be the poor and the sons of the working poor and the other individuals who, for some reason or other, have not had access to the full opportunities of our society.

Then Mr. Kelley says:

Three thousand is our best judgment of balancing the scales between those two considerations.

The two considerations are: What is sufficient attraction? Yet, we do not want

to overpay the 18- and 19-year-old men.

Mr. President, I think this is an extremely unfortunate kind of inclusion in our Selective Service Act. We have seen during recent months and years—from the time of the Marshall Commission, the Defense Department study, and the Gates Commission—an attempt to provide a greater sense of equality and fairness to the young people of this country. Of all the provisions I have seen in the various proposals that have been made, I sincerely believe that this is the most repugnant.

Mr. President, I have some other comments. What is the time situation?

The PRESIDING OFFICER. The Senator has 47 minutes remaining.

Mr. KENNEDY. And the other side?

The PRESIDING OFFICER. The other side has 77 minutes remaining.

Mr. KENNEDY. Mr. President, I spoke with the chairman of the committee, and he thought he would return to the Chamber at 1:45.

I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. STENNIS. Mr. President, what is the pending order of business?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

Mr. STENNIS. Mr. President, how much time do I have remaining under my control?

The PRESIDING OFFICER. The Senator from Mississippi has 70 minutes remaining.

Mr. STENNIS. Mr. President, I yield myself 20 minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 20 minutes.

Mr. STENNIS. Mr. President, I regret that I did not have the chance to hear all of the remarks made by the Senator from Massachusetts. He and I have talked about this matter more than once. I am familiar with his views.

Mr. President, I again want to point out that the Senator from Massachusetts is entitled to credit and, I think, more than just passing or average credit, for much of the fine work he has done on this Selective Service System. Last year he and I conferred about the matter many times. It was really his amendment that we passed last year with reference to the lottery selection system in the bill that went into effect, I believe, along in October. If he had not agreed to limit his amendment to that point, I do not believe we would have gotten a bill.

This year he and I have worked on many of these matters. Even though we disagree on some in a major way, I think

that he has already strengthened the bill. He has been helpful. I am glad to give him credit.

Mr. President, I regret that there are not more Senators present on the floor at this time—there could have been—not to hear my speech, but to hear a statement of these facts that are so vital. They go far into the problem of supplying our military services for the years ahead with the necessary manpower, both in quality and quantity, to protect our own security as well as our position in world affairs.

I think the pending amendment and the Hughes amendment go to the very vitals of this future planning. They both involve money. I am going to take the liberty of referring to the amendment to be offered on tomorrow by the distinguished Senator from Iowa (Mr. HUGHES) in connection with this amendment. But, just as a little background, Mr. President, these both have to do with pay bills.

The pending amendment has to do with a bonus to induce men to join the service as volunteers. The amendment to be offered on tomorrow by the Senator from Iowa directly concerns salary.

With reference to the background for the military pay increases for this 13-month period beginning in January 1971 and ending on January 31, 1972, I want to call attention to the following figures.

We had a military pay increase in January 1971 of \$1.2 billion. According to a law that is already on the books, another automatic pay increase will be given to the military personnel in January 1972. That will add another \$1.2 billion.

Also, there is in the bill that the Armed Services Committee now presents to the Senate an additional increase of \$1 billion. That means that we will have a total increase of \$3.4 billion within this 13-month period.

The Hughes amendment on tomorrow proposes to add to that an additional sum of \$1.7 billion for a total amount, if it passes and becomes law, of \$5.1 billion in pay increases and allowance increases within this 13-month period. That is just for one service in the Government. They are very worthy services, all of them are. However, I am talking about money and where it will come from and all of the bills that will be considered later. All of these facts ought to be spread out here because they are part of the judgment we will be called on to make.

Mr. President, I point out that in spite of these large numbers here, the pending amendment is for only \$40 million, which compared to these billions is a relatively small sum. But it is an item that will increase from year to year.

Mr. President, laying these figures aside for a moment and going back into this new plan for supplying this manpower, the plan is for what we call a volunteer Army. However, it is far more than that. The proposal is that we have an all-volunteer marine force, an all-volunteer Air Force, an all-volunteer Navy, and an all-volunteer Army. And after 2 years we will supposedly not have any Selective Service System.

Mr. President, I suppose that I am

hard headed, but from the time I first went into this, I have had the opinion that we would not be able to get that many men, thinking in terms of more than 2 million men as the minimum number to be required, from 2 million on up to 2.4 million or 2.45 million. We are not going to get that many men under any kind of a purely volunteer system. I think we could add \$5, \$6, \$7, \$8, \$9, or \$10 billion and we still would not get enough of the right kind of men. We would get some that are the right kind, but not enough. I think that to get enough men with talent and integrity and aptitude and the character qualifications necessary, we are going to have to keep bringing in some of them through a very fair process. We will have to have for the military a Selective Service Act to that extent.

I, therefore, favor a 4-year extension of the Selective Service Act and putting in some of these salary increases that we have in the bill, particularly in the lower grades, and some additional money to experiment with, to a fairly limited degree to see what can be done with voluntary enlistments, more housing, more quarters allowances, and more of the other items as well as the enlistment bonus.

What we have finally put in the bill with this \$40 million could be applied to that. But the Secretary in his testimony has limited its application to the Army. As I say, this is an experiment.

Frankly, I think that if we go into this for many years we are going to have to have bonuses for the Marine Corps, the Air Force, and the Navy. It is just commonsense.

This is a period during which great effort is going to be made in this experiment and the way it is going to be applied for men that are willing to sign up from the beginning to go into a rifle company, an artillery battery, or an armored unit. If some young fellow thinks he would like that, and if he is willing to go in and take the training, and I think it should be severe training, and mold himself into a hard-muscled man who knows how to be a rifleman or an artilleryman, as a matter of principle I am not objecting to paying him a bonus to do it.

I say that even if he is a so-called poor boy. I do not think that is the controlling difference. I am speaking about men who are not well-fixed in worldly goods. They take jobs that are rather rugged and which call for sweat and labor. I know from experience it never hurt me. If that man is willing to become a rifleman or an artilleryman I would be willing to pay him a bonus to do that. If he does not measure up to specifications I would put him out.

Of course, qualifications, integrity, and aptitude to handle electronics, to handle the missiles, to be a member of the nuclear carrier crews, submarines, and matters of that kind, are to be considered.

I do think this enlistment bonus in this bill is worthy as an experiment and it is not a great sum. If we try it for a year we will know a great deal more about it a year from now than we do today.

I believe that reviewed properly—as the long term experiment it is—the enlistment bonus may help us in time reduce our reliance on the draft. As I have said before, I believe it is a flight from reality to believe we can completely do away with the draft. But the administration has proposed an experiment with the use of this bonus and our committee has approved it. I believe it may be a useful experiment which could point the way, over time, to some changes in our military personnel policies. I do not believe it is a cure-all which will enable us to replace the draft immediately, nor do I believe it is a radical departure from past policies.

I think that before we ever solve the personnel matter we have to get away from a system that I think is archaic, and that is that a man is paid according to his rank, regardless of what he does. I think business has long since gotten away from that, and accepted the principle of paying a man for the job assigned to him. I do not see how a man who is a sergeant, perhaps, doing an administrative job behind the desk is entitled to as much pay as a fellow out there in the sweat and the grime driving a tank or handling an artillery weapon, or carrying a rifle. I do not believe the two could be compared, but that involves another question.

The administration has not proposed a unique and untried procedure in requesting a bonus for enlistment into certain branches of the armed services. The bonus concept is really nothing more than a pay or financial incentive to attract personnel into performing certain duties. This type of incentive has long been used in civilian life. The use of reenlistment bonus has been a feature of military from time to time since the revolutionary war. The military services today have two such bonuses.

Mr. President, I am talking about reenlistment. That is the case where a man has already been in the service and no longer is a raw recruit and he has proven his aptitude, integrity, and reliability. So we have two plans for reenlistment bonuses.

One bonus, the reenlistment bonus, is granted to every serviceman who is qualified to reenlist and consists of 1 month's pay for each year of service which the individual reenlists for. He can draw a maximum of \$2,000 over a full career. This bonus was authorized in recognition that the continuation of an experienced man in the service would reduce the cost of training a new man and bringing him to the same level of experience.

A relatively new bonus plan, authorized by the Congress in 1965, is the Variable Reenlistment Bonus. This bonus is in addition to the regular reenlistment bonus and can be awarded to certain individuals who are in critical skills for which there are generally high training costs. Depending on the current need for the individual's skill, he could receive up to four times the regular reenlistment bonus. Thus a highly trained enlisted man could receive a maximum of \$10,000 for a reenlistment in the service. This would result if he were able

to receive the full \$2,000 regular bonus and the full multiple Variable Reenlistment Bonus of \$8,000.

That would involve some of these men who come in, even through the draft, and show an aptitude. For instance, they might be on these crews for the ICBM's or nuclear powered submarines, or our attack submarines, involving a lot of electronics and computers; or they might be specialists in the airports, and in communications, for instance, involving long training. Some of that training runs as high as 2 years before they are entrusted with these responsible positions and it costs a great deal of money to train them.

We found, and it has worked very well, to have a meaningful bonus paid to these men for reenlistment. It has been worth far more than it costs.

The Variable Reenlistment Bonus has been one of the most successful pay incentive programs ever utilized in the armed services. It is estimated that during the period from fiscal year 1968 until fiscal year 1970 the Variable Reenlistment Bonus has produced 13,700 reenlistees in the Army alone and some 36,900 reenlistees in all the services. These are skilled, trained personnel who would have otherwise been lost to the services, in all probability.

I will give a practical illustration of that. I handled the appropriation bill which included funds for the FAA. We had to increase greatly the number of men who work in the towers. I think the budget increased the number of men by about 3,000. On evidence, we put in 3,000 more. I was insisting that they could not get that many men in that short period; therefore, they did not need that much money because they could not use it. They said, "We will get them." I said, "How?" They said, "We will take them away from the military." That is exactly what they were doing. They were paying these higher salaries and when the terms of the military personnel were up, they would not reenlist, but would go to some other agency or get into private employment. The reenlistment bonus I have described has been very valuable in giving the military a chance to keep those men.

This variable reenlistment bonus is used only for those skills which are critical and it is stopped, started, increased, or decreased as is necessary to meet the needs of the services.

This is not pay. There are no retirement benefits based on it. It is just buying trained talent in the marketplace.

Now, it seems to me that we are building on a proven and tested program when we use a bonus program to attract initially the type of persons that is believed to be needed into certain skill areas in the service. As I see it, the enlistment bonus simply uses the bonus concept at the enlistment point rather than the reenlistment point. If the reenlistment bonus and the variable reenlistment bonus can save the taxpayers millions of dollars in reduced training costs, it is highly likely that the same concept can be used to a degree to reduce reliance on the draft by causing many more young men to volunteer for the service.

Although the legislation gives the ex-

ecutive branch some flexibility and authorize the Secretary of Defense to award up to \$6,000 for an enlistment bonus, the administration has made it clear that it intends to use only \$3,000 to start the program. Further, this \$3,000 will not be offered as a lump sum but, rather, as a \$1,000 upon qualification for a skill and \$1,000 on each anniversary after qualification. This appears to insure that the money will not be spent all at once and will be phased over the 3-year period. The full \$6,000 bonus, as I understand it, would be possible at a later time for a 6-year enlistment. So the bonus initially is one of \$1,000 a year, and not a \$6,000 lump-sum payment. Such a payment would be possible under the legislation, but I believe it is fair to allow some flexibility in experimental programs in the beginning.

The Secretary of Defense plans that this test program will be used initially for the Army combat arms skills—infantry, armor, and artillery. The results of the program will be carefully examined before any further action is taken.

This appears to be a very efficient way to use the taxpayers' money. It could not be simpler—you only pay the people you want to enlist in certain skill areas. For example, at a \$1,000 per year, the requested program of \$40 million could enlist 40,000 men into combat arms. That is 40,000 less men to draft. To pay each member of the Army combat arms \$1,000 extra per year by, for example, using proficiency pay for this purpose, would cost about \$150 million; to pay each enlisted man in the Army \$1,000 extra per year would cost \$880 million. Moreover, with a bonus program there are no retirement cost increases, no additional social security expenses, none of the expenses associated with a general rise in pay.

Another point should be made clear, especially since it was one of the main reasons given by the House committee in rejecting the bonus. This bonus is available to the draftee as well as the enlistee. If a draftee is willing to commit himself for 3 years, he will be able to receive the benefit of the bonus on a pro rata basis. There is no discrimination whatsoever in providing an opportunity for receipt of the bonus.

That means the draftee who is already in the service. If his superiors find that he has certain aptitudes, and he finds he likes the military service better than he thought he would, he can receive the bonus for extending his service. Whether he receives it or not is a question for those in authority.

Mr. President, I believe the enlistment bonus is a useful experiment which could, in time, help reduce our reliance on the draft. It being such, I urge Senators to support it and to reject the proposed amendment.

Furthermore, Mr. President, as a further explanation of what I have said, I do not believe that the bonus would be enough inducement to attract enough men. However, I do believe it will attract some. If it works at all for these units, it can at least be used to get other kinds of talent for what might be called the

elite corps, specialty corps, Green Berets, paratroopers, or whatever we might want. Not all men can be members of an elite corps, true, but talented men can be induced to come into those areas in which they have an aptitude and have an interest, and I look upon this as a worthy experiment.

I yield to the Senator from Rhode Island.

Mr. PELL. I have one question that bothers me. My question is whether or not this enlistment bonus is for all people enlisting or reenlisting, or only enlisting or reenlisting for combat purposes.

Mr. STENNIS. I was relating the current proposal to the bonus programs that are on the books now. They are reenlistment bonuses. They are reenlistment bonuses for anyplace where these people are needed; any craft or any specialty where they are needed. The amounts they receive are based upon their records or their aptitudes.

It might be offered to a young man this year, 2 years later it would not be, because the service already had enough. This new plan would apply to men who enlisted for the artillery or for the tank units or for the infantry, who are really the ones who carry the rifles.

If one is already in the service as a draftee and he wants to extend and share in this bonus, he may.

Mr. PELL. But, to be more specific, what concerns me is the creation of a sort of French Foreign Legion or a mercenary corps whose members receive money in return for their willingness to do what a soldier is supposed to do, which is to fight. My query is whether all of those people would be eligible to get the bonus, or would it be only the combat people? That is what would determine my view on it.

Mr. STENNIS. This is the initial step now in the bonus plan that the present administration hopes to get enlarged. The principle applies across the board, but, according to the record, they plan to use this money only for army combat units. That is just for this year at the present time. I went into that in the beginning, when the Senator from Rhode Island did not have an opportunity to be on the floor.

Mr. PELL. I thank the Senator.

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

Mr. STENNIS. Yes; I am glad to yield to the Senator.

Mr. SPONG. I would just like to follow up what was just said with a question or two. As I understand the Senator from Mississippi, this bonus will apply only to Army combat units.

Mr. STENNIS. That is correct, in its application this year. The principle of the so-called Volunteer Army plan is much broader, of course, but we limited this to the testimony of the Secretary. He is bound, as a matter of record, to use the bonus only in these three categories.

Mr. SPONG. Under the language of the bill, it could, in the future, be applied to the Navy, the Marine Corps, and the Air Force?

Mr. STENNIS. Yes; that is correct.

Mr. SPONG. And also, under the language of the bill, the bonus can be as much as \$6,000?

Mr. STENNIS. That is right. That is the system that we are initiating now.

Mr. SPONG. But, based on the report with the bill, and upon the testimony of Mr. Kelley, the initial, first year application will be for Army combat volunteers only?

Mr. STENNIS. That is correct, and I am sure that that is binding on them—and the administration will carry out its promise—even should they want to change their minds.

Mr. KENNEDY. Mr. President, I would like to perhaps get the floor in my own right.

Mr. STENNIS. Very well. I yield the floor.

Mr. KENNEDY. Mr. President, the reasons and justifications have been indicated in the report, on page 593, in responses to questions which were asked the Secretary. He indicated why these combat bonuses were to be made available, and then says:

In summary, in addition to attracting new accessions, the bonus will be used as an incentive for members already in the Army combat arms to extend their period of service, and as an incentive for members of other arms of the Army to transfer to the combat arms should this be in the best interests of the service.

The real interest is to provide a sweetener to get a sufficient number of people who will enlist in the combat arms. I call that a bounty; you can call it whatever you want to, but it is quite clear that this is what it is.

Mr. President, I first of all commend the distinguished chairman of the committee for the efforts he has made and the attention he has drawn to the total effort of selective service reform. I doubt whether there will be an issue before us—perhaps our debate on Southeast Asia—which is of so great emotional import to so many of the young people of this country. There is great concern about the whole Selective Service System. There is not a Member of this body who has not met with young people or talked with them in colleges, listened to them, and heard their very fervent pleas about abolishing the draft wholeheartedly and completely, or at least eliminating its defective features.

I know that the chairman has been addressing this problem over a long period of time. His record is quite clear. Not only in recent times, but as early as 1967, when we had this legislation before us. At that time, the bill that came out of the Senate committee, I always felt, was vastly superior to the one that came out of conference; that is why I voted for the committee bill and to reject the conference report. So I have great respect for the chairman's work in this area. But there are various features of the measure now before us about which I have serious concern, and perhaps this is the most worrisome and bothersome feature of the legislation.

Mr. President, I, too, share the concern of the chairman about the importance of the poor young man in our so-

cety getting a job. As we know, there are limited opportunities in many respects, due to a declining economy and many other factors which affect and determine whether a young person will obtain employment.

If a young man wants to go into the Armed Forces and soldier and serve his country, I have the greatest respect and admiration for that. But what we are talking about now is inducing young men to go over into the trenches, jungles, and swamps of Southeast Asia. There is a great deal of difference between talking about inducing a person to enter the armed services of our country in times of peace and inducing someone who, for one reason or another, is denied opportunity in our society, and drawing him on into the combat arms in times of war. That is what I reject in terms of this particular feature—a \$3,000 bonus that would be sufficiently attractive to attract the poor.

To whom will that appeal? The disadvantaged person—who has been, in our society, the poor. It certainly will not appeal to the middle-income people, nor to the rich people. It will appeal to those who have never seen \$6,000, or \$3,000 before.

I find that repugnant. I feel that is different from saying to the young person, "It is good to go into the Armed Forces; the life is rugged, and you have to soldier."

Instead, we are asking these young people to go into areas of greatest danger and serve this country for money alone, and I do not believe that to be in line with our best traditions.

Mr. President, the chairman stated quite correctly what this combat bonus is attempting to do: Bring people into the combat arms. Then he reviewed the variable reenlistment bonus. Of course, that is not before us right now. The fact that some highly skilled people receive a variable reenlistment bonus has virtually nothing to do with the issue before us, which is whether we are going to offer a sweetener, a bonus, a bounty to the young people to enlist to fight in the artillery and the infantry.

The other feature of the present reenlistment bonus is the feature which, as the distinguished chairman has stated, is the equivalent of 1 month's pay times the number of years of reenlistment, to go no higher than \$2,000 over a career.

What are we offering under this proposed bonus arrangement? The Secretary can go out and offer up to \$6,000 to a young man to go over and fight in Vietnam, whereas under the old provision it used to be \$2,000 for reenlistment, for a whole career. Certainly that seems to be a rather dramatic and radical departure from our traditional attitudes. You were limited to \$2,000 heretofore over a period of a career, whereas if this measure were enacted now you would get a \$6,000 bonus. This is what it says in section 308(a):

Notwithstanding section 514(a) of title 10 or any other provision of law, a person who enlists in the Army, Navy, Air Force, or Marine Corps for a period of at least three years, or who extends his initial period of active duty in that armed force to a total of at least three years, may, under regulations to be prescribed by the Secretary of Defense,

be paid a bonus in an amount prescribed by the Secretary, but not more than \$6,000. The bonus may be paid in a lump sum or in equal periodic installments, as determined by the Secretary.

That is the language which will be governing. I will accept the interpretation of Mr. Kelly, who I know is one of the most distinguished, committed, and knowledgeable people in terms of manpower. I would accept what representatives of the Defense Department stated before the committee, in terms of what they planned to do. But the language here states quite clearly:

Not more than \$6,000. The bonus may be paid in a lump sum.

This is the power we are giving to the Secretary of Defense. Can you imagine a situation, Mr. President, where an enlistee, who comes from, perhaps, one of the deprived areas of our country, goes in and enlists and gets \$3,000, goes over to Vietnam, he might have \$3,000 in his pocket, or perhaps even \$6,000, and he is serving right along side a fellow who was drafted?

What does the draftee get? He gets the standard enlisted man's pay. The fellow who is right over next to him in that trench, right beside him, might have either \$3,000 or perhaps \$4,000 or \$5,000. He has gone into the service at the same time, maybe obtained his basic training in the exact same place, and yet, because he has enlisted, he gets this pay for the combat arms. Joe Smith, who was drafted after completion of high school, or perhaps taken out of college when his number comes up is sent to Vietnam, yet they are saying, "Congress cannot give you that bonus."

I think this is highly discriminatory between those two young people. I do not think it adds to the understanding of the young people of this country in terms of its fairness, and I think it runs quite contrary to the traditions which have been enunciated in our induction procedures, certainly, since the time of the Civil War.

In our own Selective Service Act of 1967, section 1(c) provides:

The Congress further declares that in a free society, the obligations and privileges of serving in the Armed Forces and the Reserve components thereof shall be shared generally in accordance with a system of selection which is fair and just, and which is consistent with the maintenance of an effective national economy.

We have stated that we want a system which is fair and just and as equitable as possible. I cannot see how the system provides equity when on the one hand you are going to have to pay someone a \$3,000 to \$6,000 bonus and on the other hand you send an inductee over there without that bonus. I think it violates quite clearly the stated purpose of the Selective Service Act. If it violates implicitly this stated policy—which I think is a worthwhile stated policy for selective service—it quite clearly violates section 8 of the 1967 act, which reads:

No bounty may be paid to induce any person to be inducted into an armed force.

Then it talks about a clothing allowance. By law, it is not a bounty for the purpose of this section. What is \$3,000 or \$6,000 if it is not a bounty?

Section 8 continues:

No person liable for training and service under this act may furnish a substitute for that training or service.

That is what this provision is going to do. It is going to provide substitutes, because we will go out into the streets of this country and bring disadvantaged people in; and it will reduce the number of middle income and upper people who would have to be drafted. It is clear to me that it is the equivalent of paying a substitute to serve.

It continues:

No person liable for training and service under section 4 may escape that training and service or be discharged before the end of his period of training and service by paying money or any other valuable thing as consideration for his release from that training and service or liability therefor.

It is stated quite clearly in the Selective Service Act. Bounties are repugnant to our tradition, especially when we learn the awful lessons of the Civil War, when they were part of the induction process and brought about violence and distress in New York City. Some 500 Americans were killed, and thousands were wounded. The studies and reviews of that period of time show quite clearly that those provisions should be rejected.

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

Mr. KENNEDY. I yield.

Mr. COOPER. It is my understanding, from speaking with the Senator from Mississippi and the Senator from Massachusetts, that this is a new program.

Mr. KENNEDY. That is correct.

Mr. COOPER. Which grants certain individuals special funds for enlistment.

Mr. KENNEDY. That is correct.

Mr. COOPER. I shall support the Senator. I voted against the previous amendments because I thought they would create a difference with respect to men serving in the service. I thought it would be unfair as between classes of men in the service. I voted against the amendment offered by the distinguished Senator from Wisconsin (Mr. NELSON) and the amendment offered by the distinguished Senator from California (Mr. TUNNEY). For the same reason and principle, I expect to support the amendment of the Senator from Massachusetts.

Mr. KENNEDY. I thank the Senator. Those are the same reasons why I voted against the amendment of the Senator from Wisconsin and the amendment of the Senator from California. I appreciate the comments of the Senator from Kentucky.

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

Mr. KENNEDY. I yield.

Mr. PELL. Is there not an analogy here with what happened in the North during the Civil War, as the Senator just said—the riots that occurred in New York?

My recollection, from family tradition actually, is that those who were situated fortunately enough were permitted to buy the services of another young man not so well situated and avoid combat. Was that not the real cause of the problems in New York?

Mr. KENNEDY. It was exactly as stated by the Senator from Rhode Island.

as he has pointed out, and as pointed out earlier. This situation was well stated in Harper's magazine, and in the Oakes report, which is the definitive report of Civil War draft. It reads:

Having disposed of the evils of substitution and commutation by recommending personal service for all who are drafted and accepted, General Oakes then recommended that the law be amended to " * * * dispense with government bounties altogether * * * and, instead, to increase the regular pay of the soldier to such an extent as would enable him, with prudence and economy, to support his family or dependents while in the army * * *".

It is quite clear that every selective service or draft law that has been written since the time of the Civil War has stated explicitly or implicitly that no longer would there be bounties or substitutes. As stated in the Civil War, it was a rich man's war and a poor man's fight.

Mr. PELL. Except that I must say that in the South they volunteered, without mercenary reasons, as was the case very often in the North.

Another question: I know that the Senator from Massachusetts has studied the question of a draft more thoroughly than I have. But is there not an analogy here between the French Foreign Legion and what we are proposing? In the French Foreign Legion, the bounty was not an added amount of money. If my recollection is correct, the salary was approximately the same as that in the French Army. But the bounty took the form of a premium of no questions asked when one went to enlist. If one were a criminal, if he were an escaped convict, or anything else, he would be accepted.

So the French Foreign Legion was made up mainly of people who went in for the reason of the bounty, the premium of no questions asked, or who genuinely liked the military life and liked to fight. With the French Foreign Legion, the French for years have been able to engage in operations which French public opinion would not have stood for if their sons had been drafted to engage in the same operations, no matter whether it was to keep the Moors in subjection in the deserts of the Sahara or to carry the load, as they did for years, in Indochina.

The French Foreign Legion did the fighting in the nonpopular wars, and this is exactly what would happen if we created our own American foreign legion. I think the Senator's point is well taken. We are talking about not the creation of a volunteer army but a mercenary army and the development of an American foreign legion.

Mr. KENNEDY. The Senator has raised a point that I am not aware has been discussed heretofore, and that is the ethic of the makeup of the fighting force, which is the American fighting force, and how important it is that it be truly representative of our national life and not be alien to our traditions and history and culture.

This, of course, is what happened in the French situation and is one of the various serious reasons why I have such

grave reservations about the volunteer army generally.

Mr. STENNIS. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I yield.

Mr. STENNIS. Of course, by what the distinguished Senator from Massachusetts has said, he does not mean to leave the impression that the new plan that is in the bill would permit any kind of substitution, of one man hiring another to go in his place. It has no element of that plan in it at all. Is that not correct?

Mr. KENNEDY. I would say explicitly that that is correct. The greatest objections I have are not for that reason or for the reason stated earlier. But I think that if this provision continues, that will correspondingly reduce the numbers that will be taken by the random selection system. Would the Senator not agree?

Mr. STENNIS. Yes; I think that is correct, except that—

Mr. KENNEDY. In other words, if this is a sufficient inducement to replenish or to make available all the manpower which would be necessary for the combat arms, it would reduce the number that would be taken by a random draft that fell equally on all those who are eligible physically and mentally. It would reduce the number of the middle and upper income individuals taken, I think implicitly, it would be a substitute for those individuals.

Mr. STENNIS. This is purely a voluntary system. No one has to go into this bonus plan. We can assume that those who expect this plan to be greatly expanded are the ones who expect to repeal the Selective Service Act altogether and not have any at all; so that I think this is merely an experiment, it can be tried, and the more men we get qualified and prove to be competent through this bonus plan, the less likely anyone will be drafted for these units. These are the men who will go into these rugged units where more blood is spilled and, therefore, for that additional reason, it makes it less likely, if we have a selective service, that young man X would be drafted for this purpose. So I present it, on my time—I will read from the RECORD here—

Mr. PELL. May I ask a question of the Senator from Mississippi?

Mr. STENNIS. Mr. President, how much time have I remaining?

The PRESIDING OFFICER (Mr. GURNEY). The Senator from Mississippi has 41 minutes remaining.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 18 minutes remaining.

Mr. STENNIS. Mr. President, I yield myself 5 minutes so that I may yield to the Senator from Rhode Island for a question.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 5 minutes.

Mr. PELL. Mr. President, I was struck with what the Senator from Mississippi just said, that these are more rugged units where most of the blood will be spilled or shed. I think the Senator is absolutely correct; but is it not impor-

tant that the blood that may be shed be the blood of our children who are the children of the opinion formers of the Nation, the leaders of the Nation, the richer people, the middle class, and the poor, all equally? But if the inducement of a bonus comes along—and sometimes I question the use of that word "bonus"—I question the wisdom of getting a bonus to do what is a civilian's proper duty. But if a bonus will induce young men to go in for financial reasons, then it would seem to me that the blood that will be spilled will be the blood of those who will least affect or change the course of our Government. That is what concerns me.

Mr. STENNIS. I thank the Senator for his views. That is a good question. The most ideal way, it is true, would be to have a broad, universal military service. We passed a bill like that since I came to the Senate, but it did not become law. Another ideal would be to have a purely Selective Service System, but sometimes we have to try other policies to get men for some more rugged jobs. I support the idea of at least trying to get some rugged men in voluntarily for that purpose.

Now, Mr. President, let me quote from page 63 of the hearings before the Armed Services Committee, the testimony of the Honorable Roger T. Kelley, Assistant Secretary of Defense for Manpower and Reserve Affairs, where he stated:

On a test basis, we would propose to pay a bonus of \$3,000 to those who enlist for at least 3 years in the Army combat skills as follows:

\$1,000 when qualified through combat skills training.

\$1,000 each after the first and second year, if still qualified.

It is contemplated that a higher bonus payment would be made for longer terms of enlistment, up to 6 years. Of course, the longer term enlistee represents a lower cost training investment to the services.

Mr. President, it is on the basis of that statement and the limitation of this money under that specific purpose that this item of money was put into the bill, and I quoted that part of the testimony so that it will be a part of this record of debate.

Let me emphatically state that I supported it on that basis, and on that basis alone, and that is the basis I recommended to the committee: that we include the amount based on his testimony and the limitations it carries.

I reiterate, I say that with great emphasis.

If the plan should prove successful, I would expect it to be expanded. It might be applied to the other services. Perhaps it would, if we do not renew the Selective Service Act. Frankly, I look upon this as an experiment, solely.

Mr. KENNEDY. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I yield.

Mr. KENNEDY. The Senator has talked about the ruggedness of our various combat arms. I am quite prepared to accept that as a fair description of those who serve their country and who have served it gallantly in Southeast Asia. But that would also include the Marines. As

the Senator knows, they have important responsibilities in the I Corps in Vietnam and other parts of that country. I can see a Marine regiment, or a company, on patrol, going one way, and they get the enlisted man's rate of pay, and here we will have those who have enlisted in the Army combat arms getting a bonus of \$3,000 or \$4,000 in their pockets.

The PRESIDING OFFICER. The time of the Senator from Mississippi has expired.

Mr. STENNIS. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 2 additional minutes.

Mr. STENNIS. I yield further to the Senator from Massachusetts.

Mr. KENNEDY. I wonder whether or not that situation distresses my good friend from Mississippi.

Mr. STENNIS. Well, Senator, this is a 1-year experiment. I told them that if they really got into this and moved things forward, they would have to offer this to the Marines, or to any other comparable group, and that I would expect nothing else, and would insist on it. Certainly the Senator's logic is correct but now the Marines are getting their men and filling their ranks, but still about one-third show that they were partly drafted—motivated.

Mr. KENNEDY. That is right.

Mr. STENNIS. So, if we do not renew the act, it is a new start all the way through. I am willing to have this experiment proceed.

Mr. KENNEDY. I follow the Senator's argument in terms of extension of the act, but this provision—and, Mr. President, I yield on my time, if the Senator will yield on my time, rather than his, without losing his right to the floor—but speaking in terms of the Marines, they have suffered enormous casualties yet they would not receive the bonus. This reaches to the question of equity which I know must concern the Senator from Mississippi as it does me.

Mr. STENNIS. The Senator is correct. This is for the Army alone. This money we are talking about would not apply to the Marines. I have taken that up with them, and they understand that. If it proves to be any degree of a success, or of any duration, why it will have to apply broadly, in my opinion.

We have other special pays—the submariners pay, for instance. It is not a bonus. It is written in as part of their salary. It is paid because being a submariner is a special duty. There is not only a hazard, but it also involves a long duration of time at sea and living under adverse conditions. We have a number of others. We know that we pay our doctors special pay as part of their salary. That applies also to dentists.

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

Mr. STENNIS. I yield.

Mr. KENNEDY. Mr. President, does that not apply whether one is a submariner in the combat zone in Southeast Asia or in the North Atlantic?

If the chairman were to provide a bonus for all infantry men as they are taken in—enlisted or otherwise—for combat or otherwise, then I think we

would have an entirely different kind of question here. However, this determines who will actually do the fighting.

Mr. STENNIS. Mr. President, I believe that we have about exhausted the subject here. There is a slight difference of opinion about the matter. We have this hostile-fire pay provision in the law. We are paying everyone, as we have said in the other debate, that is in Vietnam because of the hostilities that are so varied and extensive, hostile-fire pay. That is also true along the demilitarized zone in Korea where there has been scarcely a shot fired in anger in nearly 20 years. However, we apply it there because it is hazardous duty.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. Mr. President, I yield the floor.

Mr. BYRD of Virginia. Mr. President, will the Senator yield me 3 minutes?

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 3 minutes.

Mr. BYRD of Virginia. Mr. President, the distinguished Senator from Massachusetts has made a very persuasive and, I feel, compelling argument in behalf of the amendment he has offered.

When the Army first presented this proposal to the Committee on Armed Services, I found that I did not like its approach. It seems to me that it is not a sound policy. It is a principle that I do not like.

I subscribe to most of the arguments made by the distinguished senior Senator from Massachusetts. I feel that he has outlined the reasons against the proposal with great thoroughness. I support the amendment of the Senator from Massachusetts.

I do not believe that it is desirable to establish this principle of giving a special bounty to certain servicemen if they will sign on the dotted line to undertake to go into combat assignments.

As I understand it, this is over and above any combat pay that all servicemen in combat zones are now receiving. It is entirely separate from that. It is a bonus for signing on the dotted line to get into the service for a particular combat assignment or assignments.

Mr. President, I support the amendment offered by the distinguished senior Senator from Massachusetts.

I want to point out that this is one of the few times I have found myself in disagreement with the outstanding chairman of the Senate Committee on Armed Services. Not only is the distinguished Senator from Mississippi an outstanding Senator, but he is also an outstanding chairman. I am proud to serve under his leadership. In this particular matter we happen to be in disagreement. But for the most part we work side by side and for the most part we vote almost always the same way.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, I yield 1 additional minute to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized for an additional minute.

Mr. BYRD of Virginia. Mr. President, on this particular amendment it seems to me that the arguments made by the distinguished Senator from Massachusetts are sound arguments. I shall cast my vote in favor of the Kennedy amendment.

Mr. STENNIS. Mr. President, on my time, I want to say to the Senator from Virginia that I fully appreciate his position. The Senator from Virginia discussed this at the conference table when we were writing up the bill. I appreciate what he said. For the most part he and I are together. And that most part is a big most, too. I appreciate the fine work the Senator does.

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

Mr. STENNIS. Mr. President, I yield 4 minutes to the distinguished Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 4 minutes.

Mr. DOMINICK. Mr. President, I thank the Senator from Mississippi. Since the Senator has been speaking with such a great number of Senators on the floor listening to the debate, I thought that it would be fair to even it up and make it 2 to 2.

I am against the Kennedy amendment because I am for a volunteer Army. I understand that the Senator from Massachusetts is not for a volunteer army. He has so expressed himself.

Mr. President, it seems to me that we must have the necessary incentives so that we can get the required force necessary for the defense of our country.

Every single witness who appeared before the committee, whether it was a member of the Joint Chiefs of Staff or the Secretary of Defense or anyone else, said over and over again that the problem they had in trying to get people to reenlist were complicated, particularly in the areas of armor, tank, or combat infantry.

They also said that in order to get people into the military to serve in a form of life which, generally speaking, is of tremendous importance to this country—this country being civilian oriented in nature—we must have the incentives to make the service at least the equivalent of other jobs in outside industry.

I cannot for the life of me see how we will progress toward getting a volunteer army put together unless we give broad pay incentives and the reenlistment bonus.

Another of the problems we have had with respect to the military—and I think we all know that about 54 percent of the total defense budget is military pay—is that part of this military pay is involved in retraining people as new people come in all the time. Draftees go out and enlisted people do not see the opportunities, the pay raises, the housing allowances, and other things ahead, and they do not reenlist. Unless we can give these incentives, we will have to continue this escalating cost to provide retraining for the forces we need for the defense of the country.

Why do we need them for the defense of the country? That is a good question. It is not the military that is asking for

this. It is because of the commitments that have been made by civilians, by either members of the Foreign Relations Committee of the Senate or the Foreign Affairs Committee of the House or by the Armed Services Committee or by civilians in the Defense Department, or whatever it may be. We are asking for the money in order to fulfill the necessary requirements to meet these commitments of these services.

If we get an all-volunteer army of the size and sufficiency to do the job and the assignment, it seems to me that we must keep our pay scale up and must keep the continuity of service. The best way to keep that continuity of service is by continuing to have these reenlistment bonuses.

As I said, we have extraordinary, actual figures on the amount of people dropping out. We have a problem with the lower grade officers and in the lower field grades and with the enlisted men at the sergeant level and at the corporal level. We have had problems in every facet of the military in trying to get them to make this a career structure.

Unless we do make it a career structure we are going to lose the continuity and the expertise under which they have been trained, and we will not have the ability to move to a volunteer army as rapidly as I would like.

Mr. STENNIS. Mr. President, I thank the Senator for his kind statements.

Mr. President, how much time do I have remaining on the amendment?

The PRESIDING OFFICER (Mr. FANNIN). The Senator has 27 minutes remaining. The Senator from Massachusetts has 13 minutes remaining.

Mr. STENNIS. Mr. President, I yield myself 10 minutes, or so much time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. STENNIS. Mr. President, as I said in the beginning, this amendment is directly related to an amendment that is coming up tomorrow, and I wish to address some remarks to it because it is relevant to this debate.

I speak now to that part of the modified amendment No. 76, offered by the Senator from Pennsylvania, which encompasses the so-called Hughes amendment, or the pay portion of modified amendment No. 76.

As the Senate knows, the amendment as modified is now divided into two portions. The first is the pay portion which would restore the House pay provisions for an additional annual cost of \$1.7 billion over the committee version of approximately \$1 billion. The second portion of the amendment which will be voted on next week is the amendment of Senator SCHWEIKER which would extend the induction authority for only 1 year—that is, until July 1, 1972.

RELATIONSHIP OF PAY PORTION TO 1-YEAR
EXTENSION

Mr. President, this amendment as modified, which increases pay by \$1.7 billion and reduces induction authority to 1 year, goes to the heart of this entire bill.

Despite all the various arguments the basic thrust of amendment No. 76 is that

if we increase the pay by the extra \$1.7 billion then a 1-year induction authority will be a sufficient period of time for the draft to remain in effect. The basic contention is that beginning July 1, 1972 the Armed Forces of the United States will be in a position to rely on volunteers for meeting their manpower needs.

Personally I have grave doubts that this country can have an all-volunteer force even at the end of 2 years. I recognize, however, that this is the period requested by the executive branch and is the maximum which would be approved by the Congress at this time.

I shall discuss separately the issue of the 1-year extension which poses a real threat to all elements of our national defense, including our strategic forces which protect the continental United States.

Mr. President, I wish to refer to the fact that this \$40 million that would be stricken from the bill by the Senator from Massachusetts is a budgeted item. It was requested in the budget. It has a place in the administration plan for trying to meet this problem.

The amount in the Hughes amendment for this additional \$1.7 billion is not in the budget. It is over and beyond the request of the President. It is over and beyond the amount recommended by the Department of Defense and, of course, by the Bureau of the Budget. I think that should be brought out now.

If the authority for this so-called bonus is knocked out of this bill it is going to be used as an argument to put in the \$1.7 billion that the committee did not recommend. The main reason I bring it up now, is to show it is a part of the picture.

Senators will recall we have in our bill in round figures about \$1 billion. That amount is to go to increase the pay of these so-called lower grades, a man who has just been inducted into the service; the lower four grades, I believe it is, and some additional allowances. I think most of that is deserved and properly provided for, regardless of whether we have the volunteer system or continue the Selective Service system. Therefore, I can very enthusiastically support it.

Frankly, most of this \$1.7 billion I would not support on its merits. I am totally opposed to it now, but a great part of it I would not support on its merits because I think we should go slower on this volunteer matter; but in this small amount here for the bonus, with limited application to these tough situations, we might see what kind of result can be had.

In the last analysis, the President, the administration, and the Secretary of Defense finally reached the point they would not recommend over \$1 billion, including this \$40 million we have been debating.

I warn Senators now that my position tomorrow with respect to the \$1.7 billion will be the committee position. My position now is to keep this \$40 million in the bill for the reasons already assigned. But now we have an additional reason. Just as certain as we knock it out, if the Senate takes it out, it will be an argument to put in the \$1.7 billion tomorrow because some will argue that

is necessary for the so-called volunteer Army and it must move first.

I call that to the special attention of the Senate and I believe that is a major point that should be considered. To that extent I want to present this issue as a 2-point package.

We have a reasonable amount of money in here for the increase of these lower grades plus certain other advantages for them. We have a small amount in here for the bonuses. The budget is already unbalanced, incidentally, by several billion dollars. I respectfully submit that we should put that money in, kill the Hughes amendment when it does come up, and keep out the extra money but keep this relatively small amount in the bill.

Mr. President, I allotted myself 10 minutes but I have not used it all. I do not wish to yield back the unused time.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 13 minutes remaining and the Senator from Mississippi has 16 minutes remaining.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, with the time to be equally charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Mr. President, as I understand, the time between us is approximately 4½ minutes for myself and approximately 9½ minutes for the Senator from Mississippi. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. With the permission of the Senator from Mississippi, I ask unanimous consent that the remaining 14 minutes be evenly divided.

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

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from Oklahoma.

Mr. HARRIS. Mr. President, I thank the distinguished Senator from Massachusetts. I rise in support of the amendment which he has offered.

Never before in the history of this Nation have the people been more divided over the issue of war as they currently are over the war in Southeast Asia. If there is anything the American people are together on concerning this dreadful war, it is that we should get out at the earliest possible date. On this I fully agree and feel that it can be best accomplished by establishing a date certain for terminating our military involvement in Southeast Asia. Then and only then, I believe, will the many moral and legal questions raised about the war and the draft cease to be matters which presently cause severe strains on the physical, psychological, and financial resources of the American people.

Mr. President, one of the greatest moral issues raised to date on the issue

of the war and draft definitely concerns the amendment now pending before this body. As I understand it, the amendment if agreed to would strike from the committee bill section 203 which authorizes the Secretary of Defense to pay a young man up to \$6,000 to enlist in a combat division of our Armed Forces.

This provision is, in my opinion unwarranted and unjustifiable. Why, of all things, should a young man be enticed by military "bounty" to defend or protect the interests of this country? What does this say about America?

I find it difficult to believe that this provision has been included in H.R. 6531 at the request of the administration as part of its move toward an all-volunteer army. As it stands the provision is inconsistent with the position of the Marshall Commission, which stated that:

The method for selecting men for the Armed Services should insure that the final product is as consistent as possible with human dignity, individual liberty, fairness to all citizens, and the other principles and traditions of a free and democratic society.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. HARRIS. Can the Senator yield me 1 additional minute?

Mr. KENNEDY. I yield the Senator 1 more minute.

Mr. HARRIS. Since those individuals from lower income families seemingly would be more attracted to the increased pay than would those from middle or upper-income families, does this mean then that future American wars will be fought principally by the sons of postmen, policemen, and laborers, with the sons of lawyers and doctors exempted?

These, it seems to me, are very serious questions and merit considerable thought before decisions are made which are likely to enhance such possibilities.

It is my belief that when this Nation is sending young men to fight and possibly die in Southeast Asia, or any other American war, the concept of volunteerism, particularly one based primarily on pay as an enticement, raises serious questions about the extent to which social justice is accorded poor and minority group citizens who, under such a system, more than likely will bear the burden during the war.

I know that some dispute the argument that the sons of poor families would be most attracted to volunteer combat duty for which increased pay incentives to enlistees are provided. I ask; however, who among the advocates of this volunteer combat concept have demonstrated the extent of the proposed higher pay inducement for young men from middle and upper-income backgrounds? Again I dare say that poor people and minorities—blacks, American Indians, Chicanos—who have less opportunity for higher education and better jobs will be among those who find the volunteer Army more attractive, particularly as a means for improving their family income status.

For these reasons I support the pending amendment offered by the distinguished Senator from Massachusetts and urge its adoption by the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, this amendment would take away from the Defense Department one of its primary incentives needed to maintain an adequate military force in a peacetime environment.

The Senate Armed Services Committee felt that the enlistment bonus would give the Secretary of Defense a flexible bonus authority necessary for obtaining the minimum numbers of men needed in the combat arms.

There is a critical shortage of volunteers for the Army combat skills—infantry, artillery, and armor. Combat arms volunteers account for only 4 percent of the total Army accession requirements.

This approach to filling extra hazardous military occupations is not new in that paratroopers presently receive what is known as "jump pay."

In testimony before the Senate Armed Services Committee, Assistant Secretary of Defense, Roger Kelley said the Army proposed to pay a bonus of \$3,000 for a 3-year enlistment. The idea is to pay \$1,000 when the soldier attains qualification in his combat skill specialty. This would be followed by payment of \$1,000 at the end of second and third year if still qualified.

Further, a re-enlistment bonus is used to help keep men in service who are in critical occupation specialties. This bonus has been most effectively used in maintaining our military strength.

Mr. President, the advocates of this amendment argue that it will result in the poor and disadvantaged filling the combat specialty occupations in the Army. Such may be the case, but only a test of this type bonus will produce the necessary information for future judgments on this subject.

Although I am not sold on the volunteer armed forces I am supporting the enlistment bonus and other steps to make military service more appealing. We must have a test of these incentives in order to make future decisions.

Mr. President, without the enlistment bonus the Army could not get to first base in maintaining even a minimum number of men in the combat specialties. Therefore, I urge this amendment be defeated.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. STENNIS. I yield myself whatever time I have remaining.

Mr. President, I want to warn the Senate again that another amendment will be voted on tomorrow that will propose to put in the bill \$1.7 billion in addition to what we have recommended, \$1 billion. That will be an additional \$1.7 billion; and if that is adopted tomorrow, that will make the total increases for the 13-month period ending January 2, 1972, \$5.1 billion.

If this \$40 million is knocked out by this amendment, the fact that it is not in the bill will be used tomorrow to sustain putting in \$1.7 billion. I warn the Senate now that that is what I think will be the argument. The \$1.7 billion that

will be in the amendment tomorrow is money that is not in the budget and is not recommended by the Department of Defense.

Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, objection has been made here to the so-called bonus plan. This is a new bonus plan, but we already have two bonus plans currently running. For 8 or 10 years now, we have had two reenlistment bonus plans, whereby we keep in the services men whom we would not otherwise keep, and therefore fewer have to be drafted—that is just common sense—and utilize the training they already have had at the Government's expense, and save the amount that would be required to train more men.

This is a third plan. No one has to join this plan. No one has to accept this bonus. He is not being made to go into an infantry unit. It is purely a voluntary matter with him. It is going to be on a relatively small basis, limited to 1 year, for the Army only, in combat units—artillery, armor, and infantry, the men who carry the rifles.

So this is a part now of the so-called volunteer army. Those who want the volunteer army would certainly not knock in the head one of the kingpins that is supposed to hold it up. I am not supporting the volunteer army in its whole concept, because I am not convinced; but I am to the extent of the \$40 million, and I believe that it will wind up being used to get specialty units, so-called elite units. These would be fine soldiers, fine men, like the airborne units, the Green Berets of the Army, and others of that type. That is my opinion.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, this is the first time that this country has engaged in a bonus kind of operation for enlistees since the Civil War. The last time we attempted that we had the riots in New York in which 500 Americans were killed and thousands were wounded.

This is an enlistment bonus for the combat arms; and if we accept this proposal in the Selective Service Act, we can very well have the following situation: Someone goes down to the recruiter's office and volunteers for the U.S. Army, for the combat arms, and then goes to Vietnam and serves alongside a draftee. The fellow who volunteers for the combat divisions will be going around with anywhere from \$3,000 to \$6,000 in his pocket, and the draftee will be going around with an ordinary enlisted man's pay. This is categorically unfair. That is the result of this amendment.

Meanwhile, the marine is not eligible for this bonus. The marine who volunteers for the U.S. Marine Corps will not receive the bonus. The airmen who have been fighting over Vietnam will not receive the bonus. The U.S. Navy will not receive the bonus.

This is a bonus provision which is alien to our traditions. One can look through the Selective Service Acts and he will find time and time again where we say that a bonus is not something which is

within our tradition. There is no room for it.

I say, finally, in terms of the reenlistment bonuses that exist now, that reenlistment bonuses are of two types, and in the type even for reenlistment in combat arms now there is a \$2,000 ceiling. Yet, we are offering a reenlistment bonus of \$6,000 to the person who volunteers for the U.S. Army, for the combat divisions. It is \$2,000 now, over a career.

The other kind of reenlistment bonus is the variable reenlistment bonus, which is for highly trained skills, which is not applicable to the consideration before the Senate.

Mr. STENNIS. Mr. President, will the Senator yield briefly?

Mr. KENNEDY. I yield.

Mr. STENNIS. It does apply to a draftee who might see fit to extend. Is that not correct?

Mr. KENNEDY. That is correct, but only if he extends an additional period of time and only if he goes on into the combat arms. The concept of a bounty was rejected at the time of the Civil War. I am delighted that the Senator from Oregon (Mr. HATFIELD) supports this amendment. It even violates the sense of fair play and decency of volunteer army advocates. I am delighted that he has joined with me on this amendment.

The PRESIDING OFFICER (Mr. FANNIN). All time on the amendment has now expired.

The question is on agreeing to the amendment of the Senator from Massachusetts (Mr. KENNEDY).

On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Alabama (Mr. ALLEN), the Senator from Michigan (Mr. HART), the Senator from Hawaii (Mr. INOUE), the Senator from Washington (Mr. JACKSON), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), and the Senator from Missouri (Mr. SYMINGTON) are absent on official business.

On this vote, the Senator from Indiana (Mr. BAYH) is paired with the Senator from Colorado (Mr. ALLOTT).

If present and voting, the Senator from Indiana would vote "yea" and the Senator from Colorado would vote "nay."

I further announce that, if present and voting, the Senator from Michigan (Mr. HART), and the Senator from Missouri (Mr. SYMINGTON) would each vote "yea."

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN), and the Senator from

Washington (Mr. JACKSON) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from OKLAHOMA (Mr. BELLMON), the Senator from Hawaii (Mr. FONG), the Senator from Wyoming (Mr. HANSEN), the Senator from Iowa (Mr. MILLER), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The Senator from Utah (Mr. BENNETT) is absent on official business.

The Senator from New York (Mr. JAVITS) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from South Dakota (Mr. MUNDT) and the Senator from Ohio (Mr. TAFT) would each vote "nay."

On this vote, the Senator from Colorado (Mr. ALLOTT) is paired with the Senator from Indiana (Mr. BAYH). If present and voting, the Senator from Colorado would vote "nay" and the Senator from Indiana would vote "yea."

The result was announced—yeas 25, nays 49, as follows:

[No. 76 Leg.]

YEAS—25

| | | |
|-----------|-----------|----------|
| Bentsen | Gravel | Nelson |
| Burdick | Harris | Packwood |
| Byrd, Va. | Hatfield | Pell |
| Chiles | Hughes | Ribicoff |
| Cooper | Humphrey | Saxbe |
| Eagleton | Kennedy | Spong |
| Ellender | Mansfield | Talmadge |
| Ervin | Mondale | |
| Fulbright | Muskie | |

NAYS—49

| | | |
|--------------|---------------|-----------|
| Aiken | Fannin | Proxmire |
| Baker | Gambrell | Randolph |
| Beall | Goldwater | Roth |
| Boggs | Griffin | Schweiker |
| Brock | Gurney | Scott |
| Brooke | Hollings | Smith |
| Buckley | Hruska | Stennis |
| Byrd, W. Va. | Jordan, N.C. | Stevens |
| Cannon | Jordan, Idaho | Stevenson |
| Case | Magnuson | Thurmond |
| Cook | Mathias | Tower |
| Cotton | McClellan | Tunney |
| Cranston | Montoya | Weicker |
| Curtis | Pastore | Williams |
| Dole | Pearson | Young |
| Dominick | Percy | |
| Eastland | Prouty | |

NOT VOTING—26

| | | |
|----------|----------|-----------|
| Allen | Hansen | McIntyre |
| Allott | Hart | Metcalf |
| Anderson | Hartke | Miller |
| Bayh | Inouye | Moss |
| Bellmon | Jackson | Mundt |
| Bennett | Javits | Sparkman |
| Bible | Long | Symington |
| Church | McGee | Taft |
| Fong | McGovern | |

So Mr. KENNEDY's amendment was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, that is the last amendment to the bill to be voted on today. I do not know of any minor amendments that anyone wants to take up now. Tomorrow we will have two important votes.

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate, and will the Chair ask us to be seated?

The PRESIDING OFFICER. The Senate will be in order and Senators will be seated.

TOUR FOR REPRESENTATIVES OF COMMUNIST BLOC COUNTRIES

Mr. BYRD of Virginia. Mr. President, I invite the attention of the Senate to a column published in the Chicago Tribune today, written by Willard Edwards. The column, which appears on the editorial page of that newspaper, deals with a conference the Department of Defense arranged for 43 military and naval attaches of foreign nations to come to this country and to be briefed on our defense operations.

It is of great significance, I think, that included among these military officers who were invited at taxpayer expense to come to the United States under the auspices of our Department of Defense are military officers from Russia, Bulgaria, Poland, and Yugoslavia.

The distinguished senior Senator from New Mexico (Mr. ANDERSON), when he noted this list of officers attending this conference, expressed a sense of shock and disbelief that the Communist bloc of military attaches would be provided with intimate knowledge of our defenses in the Pacific.

Mr. President, I want to express on the floor of the Senate today shock and disbelief that the Department of Defense would bring here at the expense of taxpayers military officials from Communist bloc countries, including the Soviet Union.

The column by Mr. Willard Edwards quotes a letter from the senior Senator from New Mexico (Mr. ANDERSON), which was written to the Secretary of Defense asking him to furnish certain information. I will read one paragraph from Senator ANDERSON's letter:

Is the purpose of encouraging reciprocal attache tours to promote friendship and good with the Soviet armed forces or to exchange military information? If the latter, how is this expected to work to the net advantage of the United States?

I hope the Secretary of Defense will reply to that letter and present to the Senator from New Mexico, and hopefully to the Senate full information regarding this project. It seems to me that at a time when the taxpayers are spending many billions of dollars to cope with the Russian threat it seems unusual, to say the least, that military officers from Communist-bloc countries would be invited here by the Department of Defense, and at taxpayers' expense, and be given briefings in regard to our military operations.

Mr. President, I ask unanimous consent to have printed in the RECORD the article entitled "Senator Questions Tour for Reds," written by Willard Edwards, published in the Chicago Tribune today.

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

SENATOR QUESTIONS TOUR FOR REDS

(By Willard Edwards)

WASHINGTON, May 24—The junket for 43 military and naval attaches of foreign nations appeared, at first glance, to be merely another project fostered by the bureaucracy in the name of international good relations.

The guests would spend two weeks enjoying Navy hospitality. They would be flown by Navy aircraft from Washington to California and then on to Hawaii, where they would inspect a nuclear powered submarine and be briefed on antisubmarine warfare methods.

Quartered thruout in luxurious hotels, they would, on return to California, spend a day at Disneyland and wind up with two glorious days inspecting the fleshpots in Las Vegas, all at American taxpayers' expense.

This expedition came up for discussion at a closed Senate committee hearing. Scanning the guest list, Sen. Clinton P. Anderson [D., N. M.] noted that military and naval attaches from Russia, Bulgaria, Poland and Yugoslavia were included.

Highly perturbed, Anderson dashed off a letter to Defense Secretary Melvin R. Laird. He expressed his "sense of shock and disbelief" that Communist Bloc military attaches would be provided intimate knowledge of our defenses in the Pacific "against the Soviet submarine force."

"I am certain," Anderson wrote Laird, "that you will recall the painful lessons of the Wennerstrom espionage scandal of 1962 in which a Swedish air attache was able to supply the Russians with a steady flow of sensitive United States military information, gained thru his contacts with friendly American military men."

Back came an answer from Navy Secretary John H. Chafee. The Soviet attaches had been invited, he explained, in the hope that their countries in return would permit American naval attaches to receive reciprocal treatment.

However, upon reconsideration, the tour of the nuclear submarine had been canceled. The briefings on antisubmarine warfare would disclose nothing of "military intelligence value."

Anderson's next letter to Laird recalled that he had asked Laird to give the matter his personal attention but that, as usual in such cases, his complaint had been forwarded for answer to the officer responsible for creating the problem "who would tend to present the situation in a favorable light."

He was gratified, he said, that the inspection of the nuclear submarine had been canceled, "but disturbing aspects remain."

Chafee, while repeatedly asserting that "nothing of military intelligence value briefings would center on 'the problem of antisubmarine warfare.'"

"Since the U. S. Navy's 'problem' is the growing Soviet submarine fleet," Anderson wrote, "I can only conclude that the Navy is undertaking to brief the Soviet naval attache on his own country's submarine force in the Pacific."

"Am I to conclude that it is hoped, in return, that the Soviets will brief our naval attache on their antisubmarine problem, namely our submarine force?"

Anderson demanded that Laird furnish him figures on the total cost of the tour, which by this time had been concluded. He also asked what specific information was given the Soviet attaches in briefings and fired this final question:

"Is the purpose of encouraging reciprocal attache tours to promote friendship and good will with the Soviet armed forces or to exchange military information? If the latter, how is this expected to work to the net advantage of the United States?"

These were obviously tough questions to answer. A month has passed without an answer from Laird.

CONCERN FOR DISRESPECT BEING SHOWN MEMBERS OF OUR ARMED SERVICES

Mr. BYRD of Virginia. Mr. President, for some time now I have been deeply

concerned as to what is happening to the armed services of the United States.

The ridicule of an unpopular war has caused a disrespect for the men who are called on by their country to fight that war. Speeches and demonstrations against the Vietnam involvement have inevitably been construed as speeches and demonstrations against all men who wear the uniform of their country.

These critical speeches and demonstrations coupled with the now popular indiscriminate attack upon the "Pentagon" has taken its toll. Not only is the morale of conscripted soldiers at one of its slowest points in history, but professional soldiers, sailors, airmen, and marines are increasingly more skeptical as to whether their sacrifices are appreciated as they once were by a grateful nation and its citizens.

In a day and age when some young soldiers are tried for carrying out orders, and others are excused for disobeying orders, how long can the discipline necessary to produce an effective defense force be maintained?

I feel that our national defense posture has been seriously weakened.

A recent article by Hugh A. Mulligan, Associated Press staff writer, captioned "Men at Arms: The Changing Breed," dramatizes the problem and confirms my own independent findings.

I know Hugh Mulligan personally. He is a highly experienced and highly competent reporter. He reports of widespread use of drugs, racial problems, and deteriorating discipline in our armed services in Vietnam and in Europe which have far-reaching implications in our national defense posture. Too many servicemen are confused, drug addicted, and lacking in respect for constituted authority.

Men have always been the backbone of every military establishment. Able leadership and discipline have been the ingredients that have molded those men into a team effort capable of achieving success.

Today the leaders of our armed services at all levels of command are under attack both from within and from without the services. Much of this criticism is unjustified.

But some of these leaders, I feel, are contributing to the deterioration of discipline by ignoring the willful disobedience of orders and by failure to establish and maintain the necessary high standards that have always been the hallmark of the U.S. fighting men.

Discipline has been relaxed, or is being relaxed, in an effort to make the services more attractive to young people. I am not impressed with such reasoning.

Nor am I pleased with the Army's new recruiting slogans such as "The Army Wants to Join You," or the one that implies join the Army and get a free vacation in Europe. What kind of advertising campaign is that? The Senator from Rhode Island (Mr. PASTORE) commented on that on the floor of the Senate in debate last week.

But I do want to compliment the Marine Corps and its Commandant Gen. Leonard F. Chapman, Jr., who has re-

fused to lower the standards of the corps or to relax discipline. He recruits with the slogan "We're looking for a few good men." He does not imply a soft life.

I feel very strongly that military discipline must be maintained.

I am not against change, and some changes may be necessary in our armed services, but, with our national security at stake, I urge caution as to the swiftness with which these innovations are adopted.

And most certainly I reject the concept of lowered standards and relaxed discipline in an effort to achieved popularity for military life.

I urge each of my colleagues to read Hugh Mulligan's article if they have not already done so.

I ask unanimous consent that the text of the article by Hugh A. Mulligan, published in the May 23 edition of the Roanoke, Va., Times, be included at this point in the RECORD.

I ask unanimous consent, too, that an article on military morale by Col. Robert R. Heintz, Jr., USMC retired, military analyst for the North American Newspaper Alliance, as published in the Norfolk, Va., Pilot of May 23, be included at this point in the RECORD.

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

MEN AT ARMS: THE CHANGING BREED

(By Hugh A. Mulligan)

A U.S. general in Vietnam, one star, sleeps with a machine gun under his bed. His night defense posture has nothing to do with the enemy. "I don't trust my guards," he confided one night over dinner. He had good reason not to: in his unit two men have been killed and 17 wounded in "fragging" incidents.

Fragging is rolling a fragmentation grenade under the bunk of an unpopular officer or NCO—noncommissioned officer—or otherwise committing violence against the military establishment. Popping a tear gas canister outside the hooch—living quarters—is considered a warning. In 1970, according to Pentagon figures, there were 209 fragging incidents in Vietnam; twice as many as in 1969.

In the Gulf of Tonkin, the senior medical officer on the aircraft carrier Kitty Hawk has ordered the morphine syrettes removed from the dashboards of the planes bombing Laos. "The junkies on board were stealing them before the pilots got off the catapult," explained Cmdr. Ronald K. Ohlund of San Diego, Calif. "We had a kid land last week with an arm blown off, and no morphine."

Such cases, a long journey through the military establishment showed, typify many things that plague the services today. The problems—drugs, race, discipline—mirror the society from which the military is recruited and they receive a special twist from the special conditions under which troops operate.

But just as the conflicts and tensions of American society at large have scarcely brought it to collapse, so the military, too, lives with its troubles, improvises, chalks up losses and gains—and the work, by and large, gets done.

If many career men are bemused and distressed by the changes in their own world, there are also voices who see them as a challenge which adroit leadership can surmount. "The Army isn't going to hell just because kids wear their hair long," one battle-tested commander in Germany put it.

For a year now, the armed forces have been scuttling some time-honored traditions to introduce a new flexibility, to remove

some irritants of military life, to stress human relations, grant more amenities, show greater solicitude for individuality.

Adjustment to the spirit of the times takes various forms. The Army projects no more KP and no more Saturday duty. Beer in the barracks, longish hair, polite drill instructors, courses in racial understanding, efforts to combat racial discrimination in off-post housing, more passes, more shore leave—all are part of the services' effort.

Even the Marines, whose training will be as tough as ever, speak of modern barracks, new clubs and recreational facilities "to add comfort and dignity to the demands of professionalism and readiness."

Where all this will lead to remains to be seen. Meantime signs of strain are visible enough.

Capt. Carl D. McFerren II, with the 1st Infantry Division in Germany, spent four years at The Citadel and one tour as a platoon leader in the jungles west of Saigon achieving his boyhood dream of leading a rifle company.

The son of a colonel, he had always wanted to be a soldier. Now, like many professionals, he wonders "if it was all worthwhile." Instead of soldiering, he spends 80 per cent of his time dealing with problems of drug abuse, racial tension and outright refusal to obey orders.

"Nothing that went before prepared me for any of this," said the captain, seated at his desk in the company orderly room at Sheridan Barracks in Augsburg. "My first two years in the Army I never saw a 212—undesirable discharge. We've had three in the past six months three more are pending. Till I got here, I never saw a court-martial. We've had two men court-martialed, and two resign in lieu of a court-martial. "When I was The Citadel," he said, "I used to think when you told a company to fall in, the men would stand at attention. We just don't have that kind of Army anymore."

How does the career man, the professional, feel about his life work now, after My Lai and Calley? After the PX scandals and master sergeants Mafia? Can the center hold on discipline, on motivation while the anti-Vietnam veterans march for pullout and the White House winds down the war by official fiat? Are sideburns and psychedelic barracks and other innovations brought about by Adm. Elmo Zumwalt's Z-grams and Gen. William C. Westmoreland's new A.R.'s—Army Regulations—an answer to the draft or another threat to authority?

The shadow falling across the parade grounds has seldom been darker, more ominous. Drugs, racial conflict, eroding discipline, declining public confidence in the military profession are major problems of all the services. Old soldier Matthew Ridgway felt the chill in a recent address to the West Point Society of Western Pennsylvania: "Not in my lifetime—and I was born into the Army in the 19th century—has the Army's public image suffered so many grievous blows and fallen to such low esteem in such wide areas of our society."

In an interview in his Pentagon office, Gen. Westmoreland, the Army chief of staff, agreed that drugs, race, discipline and declining public image were major problems of modern military life. He attributed them, in part, to the "unpopularity of the war in Vietnam" and the major problem of trying to wind down a war while it was still going on.

"It is certainly not surprising we have these problems," the general said, "because the Army is a reflection of our society. The ills of our society inevitably overlap into our ranks."

Agreeing that the image of the military had reached "a low ebb," Westmoreland doubted that an all-volunteer fighting force could come about without a change in the attitude of the public toward the profession. "The American public cannot have it both

ways: It can't get rid of the draft and continue to degrade military service."

First Lt. Gregg Hutch of Nutley, N.J., a forward artillery observer with the 101st Airborne near Phu Bai, sensed the nation turning against the military even before he got to Vietnam. "Four to five years of peace marches have gotten to the citizen soldier," he said, hunkered down on a foot locker in an enlisted men's hooch plastered with peace symbols and Jane Fonda posters. "I used to stuff my uniform in a locker as soon as I got to LaGuardia airport. I didn't want anyone to associate me with what was going on in Vietnam."

Hutch is one of a new breed of reserve officers: outspoken, alienated from the system, doing his thing until the time comes to get out. "Ninety per cent of the EMs (enlisted men) today are as smart as I am. If they don't like my orders, they just sit there. What can I do?"

The lieutenant doesn't hang out with fellow officers. He dismisses them as establishment types. His closest buddies are enlisted men, like a Spec. 5 from Washington, D. C., whom we'll call Smith. Smith, son of an Air Force colonel, has his own advanced ideas on conducting a perimeter sweep.

"The word is out—don't take casualties," Smith said, puffing unashamed on a marijuana cigarette held in the blades of a manicure scissors.

"So we go down to the water point, swim a little, puff a few numbers (marijuana joints) and radio in: 'Real fine, sir, no dinks moving in the wire.'"

The people you met and the places you went to tended to humanize and flush out if not explain the statistics ground out by the Pentagon computers, which were stark enough:

Item: Drug abuse in Vietnam has grown from 47 servicemen apprehended in 1965 to more than 11,000 in 1970, and the command believes that for every GI caught, five go undetected.

Item: The desertion rate has increased 300 per cent in the past five years. The Pentagon says 52 out of every 1,000 soldiers fled last year.

Item: Defense Secretary Melvin Laird regards retention of good junior officers and senior NCOs as "the most serious problem we have." Prospects are not encouraging; ROTC enrollments are at their lowest ebb in 20 years.

Item: The Air Force, the second largest—after the Army—and, since its inception, the most popular of services for the volunteer, needs to retain 25 per cent of its personnel to maintain a peacetime strength of 750,000. It now holds about 15 per cent and the percentage is steadily dropping.

Item: Provost marshals in Vietnam, Germany, Korea, Berlin and other major military areas report a "sharp" to "alarming" increase in incidents of racial unrest, drug-related deaths, disrespect and violence toward officers and NCOs, major thefts and personal assaults—muggings—of fellow servicemen.

As always, the faces behind the faceless statistics revealed more than the computer's memory banks got to store. Spec. 5 Smith was encountered while AP photographer Rick Merron and I were trying to hitchhike, one hot, dusty day, from Khe Sahn to Da Nang. He offered a ride in his jeep and, seeing the AP identification on our shirt pockets, immediately moved to the attack.

"Why doesn't the press really come out and say what's going on over here?" he demanded. "Like you read where 40 per cent of the dudes are supposed to be on pot. Hell, in our outfit it's 90 per cent."

Smith drove through the gates of Camp Eagle, home of the 101st Airborne near Phu Bai, and pulled up in front of a lousy wooden hooch belonging to Headquarters Battery, 2nd Battalion, 11th Artillery. A

sign over the door warned, "Dogs and Lifers Keep Out." It went unheeded by a large, baleful-eyed mongrel panting heavily in the heat of the unshaded porch. Inside a tall, blond boy was bent over a rifle rack taking deep snorts at a tiny glass vial. Three other GIs were sprawled on their bunks exhaling clouds of sweet-smelling smoke. The decor was Playboy nudes and peace posters served up in a din of soul rock blaring from two enormous hi-fi speakers hanging above the mosquito netting.

"Man, the smack (heroin) here is so pure, it's unreal," gasped the blond trooper, drawing in deep droughts of eye-roller pleasure from his inhalator.

Merron, a proud paratrooper less than six years ago, couldn't bring himself to recognize his old outfit. "I just can't believe it," he kept saying. "It's like they were drafting kids from a totally different country."

Then on another day, in the racially tense town of Hanau, Germany, we met Spec. 4 Lester Chadband, from Trinidad, a medic with the 45th Medical Battalion. He had a paint can in one hand and a hammer in the other. His mission was to repaint the barracks, on his own, or with anyone who would help him.

"Somebodys gotta do something," he explained, "otherwise this place is gonna keep turning out racists and hooligans."

Since Jan. 2, when PFC Martin Powell, an 18-year-old black recruit from Suffolk, Va., was killed in a fall down the stairwell of the Hudier Barracks, Hanau had been a racial tinderbox. Blacks from C and D Companies, demanding to see the commanding general, had invaded the orderly room, belted Capt. Richard Johnson, the officer of the day, with a baseball bat, and declared a "day of rage." White backlash to the black militance brought on a wave of vandalism, rioting, interracial terrorism and vigilante action.

While a hastily organized equal opportunities council tried to cool the situation, "Chezan" Chasband, as he calls himself, set about trying to interest blacks and whites into painting and fixing up their crumbling, 50-year-old German Barracks to get their minds on something more constructive.

More and more, wherever we went, it became apparent that dealing with problems of race and drugs were a major preoccupation of those in leadership, and no service, not even the hard-nosed Marine Corps, which was sticking to its guns on discipline, was exempt. Many commanders, trying to keep abreast of the situation the way they would read up on the latest in tactics and strategy, kept volumes like "The Black American" and "From Slavery to Freedom" handy on their bookshelves.

Already a number of troop commanders have been hailed as comers in the profession for their adroit handling of tense racial situations: men like Maj. Gen. Robert Miloy, commander of the 314th Air Division in Korea, Brig. Gen. Harold Hayward of the Berlin Brigade, Maj. Gen. Hal Moore, commander of the 7th Infantry Division, recently pulled back from Korea.

In the war against drug abuse, the Army and the Air Force have adopted limited amnesty programs, which provide treatment without punishment for first offenders seeking help. Like the other services, the Marines and the Navy have extensive educational programs but are less tolerant of drug users. In the process of cutting back to pre-Vietnam strength, the Navy in the last 24 months released 6,461 men for drug abuse, the Marines, 1,603.

In Vietnam, Gen. Creighton Abrams launched a search and destroy operation against the lush marijuana growing areas, using helicopters and spotter planes, but smuggling of opium and its derivatives, heroin and morphine, from Burma, Laos and northern Thailand, where it is grown as a cash crop, is still a major problem.

MILITARY MORALE, DISCIPLINE BELIEVED TO BE WORST EVER

(By Col. Robert D. Heini, Jr., retired)

WASHINGTON.—The morale, discipline and battleworthiness of the U.S. armed forces are, with a few salient exceptions, lower and worse than at any time in this century and possibly in the history of the United States.

By every conceivable indicator, our Army that now remains in Vietnam is in a state approaching collapse, with individuals and units avoiding or having refused combat, murdering their officers and noncommissioned officers, drug-ridden, and dispirited where not near-mutinous.

Elsewhere than Vietnam, the situation is nearly as serious.

Intolerably clobbered and buffeted from without and within by social turbulence, pandemic drug addiction, race war, sedition, civilian scapegoatism, draftee recalcitrance and malevolence, barracks theft and common crime, unsupported in their travail by the general government, in Congress as well as the executive branch distrusted, disliked, and often reviled by the public, the uniformed services today are places of agony for the loyal, silent professionals who doggedly hang on and try to keep the ship afloat.

The responses of the services to these unheard-of conditions, forces and new public attitudes are confused, resentful, occasionally Pollyanna-ish, and in some cases even calculated to worsen the malaise that is wracking them.

"Frag incidents" or just "fragging" is current soldier slang in Vietnam for the murder or attempted murder of strict, unpopular, or just aggressive officers and NCOs. With extreme reluctance after a young West Pointer from Sen. Mike Mansfield's Montana was fragged in his sleep, the Pentagon disclosed last month that fraggings in 1970 (209) had more than doubled those of the previous year (92).

Word of the deaths of officers will bring cheers at troop movies in bivouacs of certain units.

In one such division—the morale-plagued Americal—fraggings during 1971 have been authoritatively estimated to be running about once a week.

Yet fraggings, though hard to document, form part of the ugly lore of every war. The first such verified incident known to have taken place occurred 190 years ago when Pennsylvania soldiers in the Continental Army killed one of their captains during the night of Jan. 1, 1781.

Bounties, raised by common subscription in amounts running anywhere from \$50 to \$1,000, have been widely reported put on the heads of leaders whom the privates and Spec. 4s want to rub out.

Shortly after the costly assault on Hamburger Hill in mid-1969, the GI underground newspaper in Vietnam, GI Says, publicly offered a \$10,000 bounty on Lt. Col. Weldon Honeycutt, the officer who ordered (and led) the attack. Despite several attempts, however, Honeycutt managed to live out his tour and return stateside.

"Another Hamburger Hill" (i.e., toughly contested assault), conceded a veteran major, "is definitely out."

The issue of "combat refusal," an official euphemism for disobedience of orders to fight—the soldier's gravest crime—has only recently been again precipitated on the frontier of Laos by Troop B, 1st Cavalry's mass refusal to recapture their captain's command vehicle containing communication gear, codes and other secret operation orders.

As early as mid-1969, however, an entire company of the 196th Light Infantry Brigade publicity sat down on the battlefield. Later that year, another rifle company, from the famed 1st Air Cavalry Division, flatly re-

fused—on CBS-TV—to advance down a dangerous trail.

(Yet combat refusals have been heard of before; as early as 1813, a corps of 4,000 Kentucky soldiers declined to engage British Indians who had just sacked and massacred Ft. Dearborn later Chicago).

While no senior officer (especially one on active duty) can openly voice any such assessment, the foregoing conclusions find virtually unanimous support in numerous nonattributable interviews with responsible senior and midlevel officers, as well as career noncommissioned officers and petty officers in all services.

Historical precedents do exist for some of the services' problems, such as desertion, mutiny, unpopularity, seditious attacks, and racial troubles. Others, such as drugs, pose difficulties that are wholly new.

Nowhere, however, in the history of the armed forces have comparable past troubles presented themselves in such general magnitude, acuteness, or concentrated focus as today.

By several orders of magnitude, the army seems to be in worst trouble.

But the Navy has serious and unprecedented problems, while the Air Force—on the surface, at least, still clear of the quicksands in which the Army is sinking—is itself facing disquieting difficulties.

Only the Marines—who have made news this year by their hard line against discipline and general permissiveness—seem, with their expected staunchness and tough tradition, to be weathering the storm.

To understand the military consequences of what is happening to the U.S. armed forces, Vietnam is a good place to start. It is in Vietnam that the rearguard of a 500,000-man Army, in its day (and the observation of the writer) the best Army the United States ever put into the field, is numbly extricating itself from a nightmare war the armed forces feel they had foisted on them by bright civilians who are now back on campus writing books about the folly of it all.

"They have set up separate companies," writes an American soldier, from Cu Chi, quoted in The New York Times, "for men who refuse to go out into the field. It is no big thing to refuse to go. If a man is ordered to go to such and such a place; he no longer goes through the hassle of refusing; he just packs his shirt and goes to visit some buddies at another base camp. . . ."

"Operations have become incredibly ragtag. Many guys don't even put on their uniforms any more . . . The American garrisons on the larger bases are virtually disarmed. The lifers have taken our weapons from us and put them under lock and key . . . There have also been quite a few frag incidents in the battalion."

Can all this really be typical or even truthful?

Unfortunately the answer is yes.

While denying further unit refusals, the Air Cavalry has admitted some 35 individual refusals in 1970 alone. By comparison, only two years earlier in 1968, the entire number of officially recorded refusals for our whole Army in Vietnam—from over seven divisions—was 68.

"Search and evade" (meaning tacit avoidance of combat by units in the field) is now virtually a principle of war, vividly expressed by the GI phrase, "CYA (Cover Your Ass) and get home".

That "search-and-evade" has not gone unnoticed by the enemy is underscored by the Vietcong delegation's recent statement at the Paris peace talks that the Communist units in Indochina have been ordered not to engage American units which do not molest them. The same statement boasted—not without foundation in fact—that American defectors are in the VC ranks.

Symbolic antiwar facts (such as the one at Pleiku where an entire medical unit, led by its officers, refused Thanksgiving turkey), peace symbols, "V"-signs not for victory but for peace, booing and cursing of officers and even of hapless entertainers such as Bob Hope, are unhappily commonplace.

As for drugs and race, Vietnam's problems today not only reflect but reinforce those of the armed forces as a whole. In April, for example, members of a congressional investigating subcommittee reported that ten to 15 per cent of our troops in Vietnam are now using high-grade heroin and that drug addiction there is "of epidemic proportions."

Only last year, an Air Force major and command pilot for Ambassador Bunker was apprehended at Tan Son Nhut Air Base outside Saigon with \$8 million worth of heroin in his aircraft. The major is now in Leavenworth.

Early this year, an Air Force regular colonel was court-martialed and cashiered for leading his squadron in pot parties, while, at Cam Ranh Air Force Base, 43 members of the base security police squadron were recently swept up in dragnet narcotics raids.

All the foregoing facts—and many more dire indicators of the worst kind of military trouble—point to widespread conditions among American forces in Vietnam that have only been exceeded in this century by the French army's Nivelle Mutinies of 1917 and the collapse of the czarist armies in 1916 and 1917.

It is a truism that national armies closely reflect societies from which they have been raised. It would be strange indeed if the armed forces did not today mirror the agonizing divisions and social trauma of American society, and of course they do.

For this very reason, our armed forces outside Vietnam not only reflect these conditions but disclose the depths of their troubles in an awful litany of sedition, disaffection, desertion, race, drugs, breakdowns of authority, abandonment of discipline, and, as a cumulative result, the lowest state of military morale in the history of the country.

Sedition—coupled with disaffection within the ranks, and externally fomented with an audacity and intensity previously inconceivable—infests the armed services.

At best count, there appear to be some 144 underground newspapers published on or aimed at U.S. military bases in this country and overseas. Since 1970, the number of such sheets has increased 40 per cent (up from 103 last fall). These journals are not mere gripe-sheets that poke soldier fun in the "Beetle Bailey" tradition, at the brass and the sergeants. "In Vietnam," writes the Ft. Lewis-McChord Free Press, "the lifers, the brass, are the true enemy (cahe), not the enemy. (I.C.E.)." Another West Coast sheet advises its readers: "Don't desert. Go to Vietnam and kill your commanding officer."

At least 14 GI dissent organizations (including two made up exclusively of officers) now operated more or less openly. Ancillary to these are at least six antiwar veterans' groups which strive to influence GIs.

Three well-established lawyer groups specialize in support of GI dissent. Two (GI Civil Liberties Defense Committee and New York Draft and Military Law Panel) operate in the open. A third is a semi-underground network of lawyers who can only be contacted through the GI alliance, a Washington group which tries to coordinate seditious antimilitary activities throughout the country.

One antimilitary legal effort operates right in the theater of war. A three-man law office, backed by the Lawyers Military Defense Committee, of Cambridge, Mass., was set up last fall in Saigon to provide free civilian legal services for dissident soldiers being court-martialed in Vietnam.

Besides these lawyers' front, the Pacific Counseling Service (an umbrella organiza-

tion with Unitarian backing for a proflifer of antimilitary activities) provides legal help and incitement to dissident GIs through not one but seven branches (Tacoma, Oakland, Los Angeles, San Diego, Monterey, Tokyo, and Okinawa).

Another of Pacific Counseling's activities is to air-drop plane-loads of seditious literature into Oakland's sprawling army base, our major West Coast staging point for Vietnam.

On the religious front, a community of turbulent priests and clergymen, some unfrocked, calls itself the order of Maximilian, named for a saint said to have been martyred by the Romans for refusing military service as an un-Christian. Maximilian's present-day followers visit military posts, infiltrate brigades and stockades in the guise of spiritual counseling, work to recruit military chaplains, and hold services or "consecrations" of post chapels in the name of their saintly draft-dodger.

By present count, at least 11 (some go as high as 26) off-base antiwar "coffee houses" ply GIs with rock music, lukewarm coffee, antiwar literature, how-to-do-it tips on desertion, and similar disruptive counsels. Among the best-known coffee houses are: the shelter half (Ft. Lewis, Wash.); the home front (Ft. Carson, Colo.); and the Oleo Strut (Ft. Hood, Tex.).

Virtually all the coffee houses are or have been supported by the U.S. Serviceman's Fund, whose offices are in New York City's Bronx. Until May 1970, the fund was recognized as a tax-exempt "charitable corporation," a determination which changed when IRS agents found that its main function was sowing dissension among GIs and that it was a satellite of "the new mobilization committee," a Communist-front organization aimed at disruption of the armed forces.

Another "New Mobe" satellite is the GI Press Service, based in Washington, which calls itself the Associated Press of Military Underground Newspapers. Robert Wilkinson, GI Press's editor, is well known to military intelligence and has been barred from South Vietnam.

While refusing to divulge names, IRS sources say that the Serviceman's Fund has been largely bankrolled by well-to-do liberals. One example of this kind of liberal support for sedition which did surface identifiably last year was the \$8,500 nut channeled from the Philip Stern Family Foundation to underwrite Seaman Roger Priest's Underground Paper OM, which, among other writings, ran do-it-yourself advice for desertion to Canada and advocated assassination of President Nixon.

The nationwide campus-radical offensive against ROTC and college officer-training is well known. Events last year at Stanford University, however, demonstrate the extremes to which the campaign (which peaked after Cambodia) has gone. After the Stanford faculty voted to accept a modified, specially restructured ROTC program, the university was subjected to a cyclone of continuing violence which included at least \$200,000 in ultimate damage to buildings (highlighted by systematic destruction of 40 twenty-foot stained glass windows in the library). In the end, led by University President Richard W. Lyman, the faculty reversed itself. Lyman was quoted at the time as saying that "ROTC is costing Stanford too much."

"Entertainment industry for peace and justice," the antiwar show-biz front organized by Jane Fonda, Dick Gregory and Dalton Trumbo, now claims over 800 film, TV, and music names. This organization is backing Miss Fonda's antimilitary roadshow that opened outside the gates of Ft. Bragg, N.C., in mid-March.

Describing her performance (scripted by Jules Pfeiffer) as the soldier's alternative to

Bob Hope, Miss Fonda says her cast will repeat the Ft. Bragg show at or outside 19 more major bases. Although her project reportedly received financial backing from the ubiquitous Serviceman's Fund, Miss Fonda insisted on \$1.50 admission from each of her GI audience at Bragg, a factor which, according to soldiers, somewhat limited attendance.

Freshman Rep. Ronald V. Dellums, D-Calif., runs a somewhat different kind of antimilitary production. As a congressman, Dellums cannot be barred from military posts and has been taking full advantage of the fact. At Ft. Meade, Md., last month, Dellums led a soldier audience as they boomed and cursed their commanding officer, who was present on-stage in the post theater which the Army had to make available.

Dellums has also used Capitol Hill facilities for his "ad hoc hearings" on alleged war crimes in Vietnam, much of which involves repetition of unfounded and often unprovable charges first surfaced in the Detroit "Winter Soldiers" hearings earlier this year.

As in the case of the latter, ex-soldier witnesses appearing before Dellums have not always been willing to cooperate with Army war-crimes investigators or even to disclose sufficient evidence to permit independent verification of their charges. Yet the fact that five West Point graduates willingly testified for Dellums suggests the extent to which officer solidarity and traditions against politics have been shattered in today's armed forces.

Not unsurprisingly, the end-product of the atmosphere of incitement, or unpunished sedition, and of recalcitrant antimilitary malevolence which pervades the world of the draftee (and to an extent, the low-ranking men in "volunteer" services, too) is overt action.

One militant West Coast group, Movement for a Democratic Military (MDM), has specialized in weapons thefts from military bases in California. During 1970, large armory thefts were successfully perpetrated against Oakland Army Base, Ft. Cronkrite and Ft. Ord, and even the Marine Corps base at Camp Pendleton, where a team wearing Marine uniforms got away with nine M16 rifles and a J79 grenade launcher.

Operating in the Middle West, three soldiers from Ft. Carson, Colo., home of the Army's permissive experimental unit, the 4th Mechanized Division, were recently indicted by federal grand jury for dynamiting the telephone exchange, power plant and water works of another Army installation, Camp McCoy, Wis., on 26 July 1970.

The Navy, particularly on the West Coast, has also experienced disturbing cases of sabotage in the past two years, directed at ships' engineering and electrical machinery.

It will be surprising, according to informed officers, if further such tangible evidence of disaffection within the ranks does not continue to come to light. Their view is that the situation could become considerably worse before it gets better.

MILITARY PAY AMENDMENT

Mr. STENNIS. Mr. President, in the great rush of Senate business here, particularly with committee meetings that have to go on, I find it very difficult to get communications to Senators over in the last part of the debate on the day the bill is set for a vote. Therefore, I am going to speak about the matters that are coming up tomorrow, particularly the pay increase.

If any Senator wants the floor on any pending matter, or anything of that kind, I shall be glad to yield to him, because

it will take me some 15 minutes or more on this matter.

First, regarding the proposal that is coming up tomorrow providing for a \$1.7 billion increase in the military pay, I have here a letter that I have written to each Member of the Senate today, and am mailing to them this afternoon. For the information, too, of those who might read the RECORD, I ask unanimous consent at this point that there be included in the RECORD a copy of this letter, dated today, to my colleagues on modified Amendment No. 76, the Hughes amendment, together with a copy of a letter received today, and dated today, from the Honorable David Packard, Deputy Secretary of Defense, concerning the same amendment, the Hughes amendment to H.R. 6531.

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

COMMITTEE ON ARMED SERVICES,
Washington, D.C., May 25, 1971.

DEAR COLLEAGUE: Tomorrow the Senate will vote on the pay increase portion of the amendment No. 76. I urge you to vote against this amendment which adds \$1.7 billion annual cost to the bill. I cite the following factors for your consideration.

1. It is unrealistic to expect that the Defense budget of \$78.7 billion will be increased to accommodate the added cost of \$1.7 billion. Since such increases must be paid if enacted, the only recourse would be to make massive reductions in other Defense activities. The Department of Defense (see attached letter) has stated that the added pay "would be harmful to the national security effort, in FY 1972 and in the long run as well" and could possibly cause such reductions as over 250,000 military and civilian personnel below the planned levels with additional cuts in other crucial areas leading to major base reductions and serious economic dislocations.

2. In one year even without the amendment, military compensation either planned or projected will be increased by \$3.4 billion annually as a result of this automatic increase of January 1, 1971, the Committee reported bill costing \$1 billion, and the projected automatic increase of January 1, 1972. The pending amendment would increase the cost to slightly over \$5 billion within one calendar year.

3. The Committee bill makes a significant contribution to the military pay system. Over 92% of the \$1 billion increase will go to personnel in the lower enlisted grades with under 2 years of service. The lowest pay grade, with the 50.2% increase in the Committee bill, will have doubled in less than 2 years since July 1969. No apology needs to be made for military pay legislation generally. Since 1963 basic pay will have increased 112% including the 7.4% projected for January 1, 1972.

4. Much has been made of the military poverty question. The increases in the Committee bill will eliminate all but 778 families even under the President's higher Family Assistance Plan. Even here the family size must be a minimum of 5 for an E-1 and a family size of 6 for E-2 or E-3. You should remember that the average time for promotion in the Army to E-4 is only one year and four months. None of these are typical military family situations.

5. Under the pending Hughes amendment only 48% of the \$1.7 billion would go to persons with under 2 years of service. The value and impact of the actions already scheduled for this fiscal year should be assessed and

not presumed inadequate by adding \$1.7 billion in pay costs to the \$1 billion already in the bill.

Sincerely,

JOHN C. STENNIS.

DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., May 25, 1971.

HON. JOHN C. STENNIS,
Chairman, Committee on Armed Services,
United States Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Secretary Laird's letter of 9 April 1971 outlined the position of the Executive Branch with respect to the military pay provisions of H.R. 6531. As noted in that letter, we strongly oppose passage of the House version of H.R. 6531 with respect to the pay portion. I want to elaborate on the key points made in that letter, to make sure it is clear that our opposition involves far more than our concern with immediate problems with spending levels.

Our basic objection to the higher pay and allowances provided in the House Bill is that these would be harmful to the national security effort, in FY 1972 and in the long run as well. This would result from a serious misallocation of resources (a) between the pay area and other critical aspects of the Defense effort, such as investment, research, and operations and (b), within the pay area itself.

The House Bill would add approximately \$1.7 billion to the President's FY 1972 spending estimates. If we had to accommodate such an increase within a fixed spending total, it would have an extremely serious impact upon our national security. If the cut were to be applied proportionally among manpower and other areas of the budget, it would involve (a) reductions of over 250,000 military and civilian personnel below authorized levels for June 1972 and (b) a cut of over \$2 billion in budget authority outside the pay area, requiring a 6% cut in contracts planned for the FY 1972 program. This would lead to major base reductions and realignment actions and serious economic dislocations.

Our experience has very clearly been that large amounts of pay increase have had to be absorbed within the Defense budget, by cutting back on manpower and real procurement levels. Since pay costs have escalated so much more sharply than purchase costs (the comparison is roughly 80% to 28%), we find ourselves becoming increasingly imbalanced with more of our budget required for payroll and a declining share available for research and modernization. In FY 1964, payroll and related costs comprised 44% of our budget; this rises to 52% in FY 1972, and would be even higher under the House Bill.

Adjustments to DOD FY 1972 spending to absorb the House Bill pay increase would have a multiple impact upon manpower levels and procurement. This results from lead-times. Personnel to be reduced must be selected and given notice, then carried on the rolls for a period, after which there are heavy one-time separation costs. The result is that we save only a few months of pay for each person separated or, to put it another way, we must separate several people to save the equivalent of one year's pay for one person. First-year spending in the procurement area is generally one-fourth or less of the total contract amount, so that we must forego \$4 worth of contracts to eliminate \$1 in spending. In addition to this, it is necessary to remember that about \$25 billion in FY 1972 spending is a fixed item as of now—it will result from amounts already under contract or statutory payments to retired military personnel.

The President's proposals, as reflected in the Senate Bill, would provide a one-time

increase of 50.2% for the lowest pay grade. With other raises recently granted, this would mean that pay in this grade would nearly double in less than two years since July 1969. The Senate Bill therefore represents a very large step. Before doubling the increases sought by the President, it is only prudent to assess the consequences in a practical situation. After we have gained some experience, and further information, we can better determine the approximate mix of actions best suited to realize our Volunteer objectives.

In summary, the FY 1972 budget represents the minimum budget necessary to meet our national security requirements. For this reason, we oppose the higher pay provisions added in H.R. 6531. We believe that, in practice, this will inevitably result in the need to make extensive and imprudent cutbacks in critical Defense programs for FY 1972, FY 1973, and beyond.

Sincerely,

DAVID PACKARD.

Mr. STENNIS. Mr. President, we have heard a good deal in this debate about poverty in the armed services. The proponents of the Hughes-Schweiker amendment assert that the extra unbudgeted \$1.7 billion in their proposal is needed to solve this problem. The plain fact is, Mr. President, that after the substantial pay increase recommended by the committee, and without the Hughes-Schweiker amendment, a newly enlisted man just out of high school will make more money than his fellow high school graduates in civilian life.

Under the committee bill, a new recruit will earn, in regular military compensation, \$3,979. After basic training, he would earn \$4,244. Typically, he would be promoted twice more before he had been in the military a year and 3 months. Thus, within this time, while still in his first 2 years, he would be earning \$6,608.

Now, on the outside—in civilian life—an average working 18–19-year-old earned only \$3,200 in 1968. An average working 20–21-year-old earned about \$5,000. These figures have probably increased by several hundred dollars since 1968, but even if they have increased 20 percent in 2 years, the point still remains that under the Armed Services Committee bill, a young man in the Army will earn as much or more than he will in civilian life. The Hughes-Schweiker amendment merely piles an additional unnecessary, inflationary, unbudgeted \$1.7 billion on top of an already significant increase.

Mr. President, I shall speak to that portion of the modified amendment No. 76, which encompasses the so-called Hughes amendment or the pay portion of this particular amendment. As the Senate knows, the amendment as modified is now divided into two portions. The first is the pay portion which would restore the House pay provisions for an additional annual cost of \$1.7 billion over the committee version of approximately \$1 billion. The second portion of the amendment which will be voted on next week is the amendment of Senator SCHWEIKER which would extend the induction authority for only 1 year—that is, until July 1, 1972.

RELATIONSHIP OF PAY PORTION TO 1-YEAR
EXTENSION

Mr. President, this amendment as modified, which increases pay by \$1.7 billion and reduces induction authority to 1 year, goes to the heart of this entire bill.

Despite all the various arguments the basic thrust of amendment No. 76 is that if we increase the pay by the extra \$1.7 billion, then a 1-year induction authority will be a sufficient period of time for the draft to remain in effect. The basic contention is that beginning July 1, 1972, the Armed Forces of the United States will be in a position to rely on volunteers for meeting their manpower needs.

Personally I have grave doubts that this country can have an all-volunteer force even at the end of 2 years. I recognize, however, that this is the period requested by the executive branch and is the maximum which would be approved by the Congress at this time.

I shall discuss separately the issue of the 1-year extension which poses a real threat to all elements of our national defense, including our strategic forces which protect the Continental United States.

PAY AMENDMENT UNBUDGETED

Mr. President, the Defense budget for fiscal year 72 is \$78.7 billion in new obligational authority. There is not one nickel in the Defense budget to take care of the additional \$1.7 billion which this amendment would cost. If this amendment becomes law, Mr. President, the personnel must of course be paid this additional amount. The President is now able to withhold amounts authorized or appropriated in some instances, but when salaries of personnel in the departments of government are increased, then that is an express obligation and has to be paid. The Senate therefore would be faced with two choices: either increase the Defense budget by \$1.7 billion in order to pay the increases authorized by law, or reduce or omit other elements of the defense activities in order to come out with a level or reduced overall budget.

It is completely unrealistic, Mr. President, to expect that the Senate will vote to increase the present Defense budget request. I ask this question: Is there any Senator who plans to urge that the Defense appropriations be increased above \$78.7 billion to take care of this increase? In view of the need to control our overall Federal spending and the demand for many nondefense programs, I say it is totally unrealistic to hope that the Defense budget can be increased to accommodate the \$1.7 billion. The only other choice, Mr. President, if this amendment becomes law, would be to take this \$1.7 billion out of the hide of other Defense programs.

There is literally no way that \$1.7 billion can be absorbed by other Defense budget activities. There would have to be massive cutbacks in some form to save immediate dollars. There is no definite plan but this could take the form of large military and civilian reductions

with probable base closures, a cutback in all training activities which comes out of the O. & M. funds, or large cutbacks in the procurement R. & D. programs where immediate matching dollar savings could be realized.

COMPARISON OF 1964 LEVELS

Mr. President, I realize that it is hard to oppose any pay increase, that pay increases are always appealing and felt justifiable by those who are due to receive them. Many will also say that other Defense activities can be easily cut to match the \$1.7 billion increase.

Before we cut too deeply into the bone and muscle of our defense to accommodate this \$1.7 billion, let me make a few comparisons on the size of our forces for fiscal 1972 as compared to fiscal year 1964.

The Army will have only 13½ divisions as compared to 16½ in fiscal year 1964. The number of aircraft carriers—both attack and ASW—will be 16 as compared to 24 in fiscal year 1964. The number of Air Force tactical attack squadrons will be 105 as compared to 119 in fiscal year 1964. The number of commissioned ships will be 658 as compared to 932 in fiscal year 1964. The number of fixed-wing aircraft will be about 20,000 as compared to 25,000 in fiscal year 1964.

SECRETARY LAIRD'S POSITION—WEAKENING OF NATIONAL DEFENSE

Mr. President, the budget implications of having to absorb the \$1.7 billion is most serious. Secretary Laird, in a letter to the committee—printed in full on page 58 of the committee report—states with reference to the \$1.7 billion addition that—

This is an exceedingly poor trade-off for FY 1972 and it would weaken our national security.

I urge the Senate to heed his words.

PROBLEM OF GROWING PERSONNEL COSTS

Mr. President, this amendment relates to another serious issue and this is the constantly rising personnel costs which are consuming an ever growing proportion of the Defense budget. Military pay increases are necessary for a number of reasons, but pay increases alone do not add one single man or one additional weapon to our military forces.

Let me state what has happened. In fiscal year 1964 the cost of military basic pay was \$8.4 billion. To support the same manpower level for fiscal year 1972 the cost would be \$15.6 billion. This is an increase of about 85 percent. In fiscal year 1964 personnel and related costs—such as family housing, and so forth, which has not advanced as much as pay itself—was only 43 percent of the Defense budget as compared to 52 percent for fiscal year 1972. We must concern ourselves with the prospect, Mr. President, of being unable to provide the funds for the first rate weapons for our men in uniform in view of the constant pressures to keep down the Defense budget.

Let me observe that in the Soviet Union only about 25 percent of the De-

fense budget is utilized for personnel costs.

NO APOLOGY NEEDED FOR MILITARY PAY IN THE PAST

Mr. President, if we begin in 1963 and include the projected 7.4 percent increase for January 1, 1972, the cumulative increase in basic pay will be about 112 percent. The committee bill of \$1 billion is not included in this since these were limited to the lower grades rather than across-the-board increases. If this increase of \$1 billion, which on a budget basis represents about 6.4 percent, the cumulative increase would be about 120 percent.

COMMITTEE BILL

Mr. President, as I have already indicated, the automatic increases for January 1, 1971, and that anticipated for January 1, 1972, will increase the annual pay costs by \$2.4 billion. The committee bill adds another billion.

In all the discussion the significant contribution of the committee proposal tends to be overlooked. Mr. President, 92 percent of this billion-dollar cost will go to men with under 2 years of service, practically all of which are concentrated in the lower enlisted grades.

In basic pay we increased the E-1—under 4 months—by 50 percent; the E-1 by 40 percent; the E-2 by 50 percent; the E-3 by 35 percent; and the E-4 by 22 percent. On the basis of regular military compensation the annual amounts would range beginning at \$3,978 for the E-1 up through \$6,608 for the E-4. All of these are printed in detail on pages 31 and 32 of the committee report.

Keep in mind, Mr. President, that promotions are very rapid in these lower grades. In the Army an enlisted man on the average is promoted to E-4 in 1 year and 4 months, which means his income will go to \$6,608. This does not count medical benefits, commissary privileges, and other fringe benefits. Also, regarding the so-called poverty argument, there will be only 778 families possibly under the highest poverty level established by the President, and even here, Mr. President, there must be a minimum of four dependents for the E-1—family size, five—and a minimum of five dependents for the E-2 and E-3—family size, six—in order to come below this line. None of these are typical cases. I discussed this entire poverty question in detail on May 21, beginning on page 16436 of the CONGRESSIONAL RECORD.

ADMINISTRATION POSITION ON PAY

Mr. President, the statement has been made that the \$1.7 billion amendment, which is the same as the rates passed by the House, is nothing more than the fiscal year 1973 pay program of the Department of Defense, with the result that all the Congress is doing is enacting the pay a year ahead of time when it would be recommended by the administration.

Mr. President, this is not the case. These proposals at present represent nothing more than a tentative planning study. It did not have the approval of the Secretary of Defense and did not have the approval of the President of

the United States. It is true that there will undoubtedly be a pay proposal next year. It cannot be stated, however, that this amendment represents any approved administration fiscal year 1973 program.

Mr. President, the one thing that is always irreversible is pay in any form, including military pay. The approach of the administration and that adopted by the committee is that there should be a phase-in before allocating enormous funds solely to the lower grades. While we may hope that a volunteer effort will be a success we should not place complete reliance on it. Before acting on a 1973 program we should judge the impact of all the pay increases and all the other actions taken in fiscal year 1971 and fiscal year 1972. After this is done the Congress will be in a better position to know what should be done for fiscal year 1973.

COMMENTS ON HUGHES AMENDMENT

WHAT THE AMENDMENT DOES

Mr. President, the pending amendment adds \$1.7 billion in cost to the bill, with only 48 percent of the \$1.7 billion going to those with under 2 years of service as compared to 92 percent in the Committee Bill.

In terms of basic pay the amendment would add \$917 million with increases in the lower grades E-1, E-2, E-3, and E-4, ranging in additional monthly amounts of \$55 to \$73. The enormous cost for a relatively modest amount for each grade is due to the large number of persons involved. For the E-2, for instance, we are dealing with 231,000 persons and for the E-3 374,000 persons.

DEPENDENTS ASSISTANCE ALLOWANCE

The committee increased the dependents assistance allowance for the lower enlisted grades—E-1 through E-4—with less than 4 years, to a flat \$105 per month as compared to the present rates which range from \$60 to \$105.

The pending amendment increases the top rate of an E-3 to \$120 and an E-4 to \$143 and leaves the E-1 and E-2 rate unchanged.

BASIC ALLOWANCE FOR QUARTERS

The quarters allowances which go mainly to career personnel would be increased under the pending amendment in amounts ranging from 55 percent to 80 percent for enlisted personnel, ranging from \$105 to \$216 per month, and 51 percent to 78 percent for officers, with the new rates ranging from \$166 to \$339.

The pending amendment also makes certain adjustments at an annual cost of \$37 million in the basic subsistence allowances for enlisted personnel.

Moreover, as the bill indicates, the committee amendment includes authority for the enlistment bonus which is omitted from the pending amendment.

Mr. President, I am attaching a chart which sets forth the differences in the pending amendment from the committee version, which I ask unanimous consent to have printed at this point in the RECORD.

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

TOTAL COSTS OF SENATE COMMITTEE PROPOSALS AND HUGHES AMENDMENT

[In millions of dollars]

| | Senate Committee proposals ¹ | Hughes amend- ment | Difference |
|--|---|--------------------------|-----------------|
| Basic pay ² | \$908.0 | \$1,825.4 | +\$917.4 |
| Dependents Assistance Act..... | 79.0 | 184.1 | +105.1 |
| Basic allowance for quarters (BAQ)..... | None | 640.1 | +640.1 |
| Basic allowance for subsistence (BAS)..... | None | 37.8 | +37.8 |
| Out-of-pocket recruiting expense..... | 2.9 | 2.9 | 0 |
| Enlistment bonus..... | 40.0 | 40.0 | 0 |
| Special pay for optometrists..... | .7 | .7 | 0 |
| Reservists' training duty entitlement under Dependents Assistance Act (DAA)..... | None | 20.0 | +20.0 |
| Total cost..... | 1,030.6 | 2,751.0 | +1,720.4 |

¹ The Senate committee proposals are identical to the administration fiscal year 1972 program except for the inclusion of special pay for optometrists.

² This does not include the projected basic pay increase scheduled by public law for Jan. 1, 1972.

MR. RESOR'S STATEMENT ON \$7.5 BILLION AS THE COST OF GATES

Mr. STENNIS. Mr. President, Mr. Resor, who is now leaving as Secretary of the Army, on last Saturday, May 22, made a very profound statement. He indicated that, by using the same formula as the Gates Commission, in his view, the increased pay cost would be \$7.5 billion annually rather than \$2.7 billion as the Gates Commission indicated. This is due mainly to the fact that the Commission underestimated the number of new men needed for the Army in fiscal year 1972 and fiscal year 1973. Mr. Resor's opinion is entitled to great respect even if one may disagree and say his conclusion is off by \$2 billion. It shows the danger of attempting to legislate a volunteer force through preconceived pay notions for lower enlisted grades.

This observation has direct relevance to the pending amendment.

CONCLUSION

We could debate forever on what is a proper pay scale for a given grade, and this is always a matter of judgment. The question is whether under all the circumstances this amendment should be enacted.

In sum, the most accurate words that can be said on this matter are contained in a letter received today by me from Deputy Secretary of Defense Packard. Let me quote:

Our basic objection to the higher pay and allowances provided in the House bill is that these would be harmful to the national security effort, in FY 1972 and in the long run as well. This would result from a serious misallocation of resources (a) between the pay area and other critical aspects of the Defense effort, such as investment, research, and operations, and (b) within the pay area itself.

The House bill would add approximately \$1.7 billion to the President's FY 1972 spending estimates. If we had to accommodate such an increase within a fixed spending total, it would have an extremely serious impact upon our national security. If the cut were to be applied proportionately among manpower and other areas of the budget, it would involve (a) reductions of over 250,000 military personnel below authorized levels for June 1972 and (b) a cut of over \$2 billion in budget authority outside the pay area, requiring a 6% cut in contracts planned for the FY 1972 program. This would lead to major base reductions and realignment actions and serious economic dislocations.

Mr. President, I feel, on full consideration, that the Senate will reject the Hughes amendment.

SCHWEIKER-HUGHES AMENDMENT NO. 76

Mr. THURMOND. Mr. President, today I wish to address myself to title IV of amendment No. 76 offered by the distinguished Senator from Pennsylvania (Mr. SCHWEIKER). Title IV is the first part of the two part Schweiker amendment and is identical to the pay proposals of the distinguished Senator from Iowa (Mr. HUGHES).

Simply stated title IV of amendment No. 76 provides for an increase in military pay raises from the \$1 billion approved by the Senate Armed Services Committee to the \$2.7 billion contained in the House bill.

Mr. President, this pay proposal is far-reaching in that it asks for expenditure of money the administration has not requested and the Congress is not likely to appropriate. Second, it follows that if this amendment passes bases will have to be closed or cuts will have to be made in weapons procurement, manpower levels or other such sources to pay for these raises. Third, the Senate is being asked to serve as a committee to consider \$1.7 billion in pay raises on which no hearings have been held and not one word of testimony offered.

Obviously, the administration and the Defense Department are opposed to this amendment as a means of fair distribution of pay raises for our men and women in uniform.

It should be understood at the outset that the author of this amendment is proposing a pay increase on top of a pay increase. The Senate Armed Services Committee has approved the military pay increase requested by the administration which calls for pay hikes totaling \$1 billion.

The proponents of this amendment wish to add an additional \$1.7 billion. This would mean that the Congress is going beyond what the Defense Department and the administration says it needs to operate the military establishment in fiscal year 1972.

Mr. President, this Nation is recording deficit after deficit each quarter it operates. This amendment would require spending in excess of the budget. Further, the Secretary of Defense says that if the increase is passed the money to finance it will have to come from weapon system programs as he does not expect a separate appropriation.

The fact that \$1.7 billion will have to

be cut from vital programs like the construction of nuclear submarines, the F-14 and F-15 planes, and other hardware should be considered by the authors of this amendment.

The question, therefore, arises as to why, after all of these years, there is suddenly a move on the Senate floor to add \$1.7 billion annually in pay for personnel in uniform.

The answer is that the prime movers of this amendment want a volunteer Army now, not tomorrow, but now. Efforts in past years to increase military pay on the floor of the Senate were few and far between. Rather it was done in committee and sometimes we had to fight on the floor to hold it.

The pay increases provided for in this amendment are short of what the Gates Commission called for—by \$20 million. When proposing an additional \$1.7 billion on top of \$1 billion it is understandable how \$20 million was overlooked. Also, the proposed pay increases vary in some degree from the distributions recommended by the Gates Commission. However, it appears the advocates of this pay increase may be more interested in getting an all-volunteer force now than providing wise pay proposals for our future armed services.

SUPPORT PAY HIKES

Mr. President, I take second place to no one when it comes to providing pay increases to our men and women in uniform. I have been here in the Senate for over 15 years and I have always supported pay raises for our servicemen. Every year since 1963 there has been a basic pay increase for military personnel. I supported everyone of them.

Why then, after the Senate Armed Services Committee has voted \$1 billion in new pay raises for fiscal year 1972, is the Senate being asked to add another \$1.7 billion in pay hikes? The answer rests not in a deep seated desire to pay our soldiers well but rather a desire to relieve some of our youth not now in uniform from the future burden of military service. In other words, this pay raise on pay raise is designed to finance what will amount to a volunteer armed force because practically every dime the Gates Commission called for is provided by this amendment.

Mr. President, let us do a little arithmetic. Let us add up the pay increases I have supported in the past few years for our servicemen. Here they are beginning in 1963 by year, the percent of increase and the money cost in that order

COST AND AVERAGE PERCENTAGE INCREASES IN BASIC PAY 1963-72

| Year: | Percent increase | Estimated annual cost (millions) |
|-----------|------------------|----------------------------------|
| 1963..... | 12.2 | \$1,191.7 |
| 1964..... | 2.3 | 207.5 |
| 1965..... | 10.4 | 995.8 |
| 1966..... | 3.2 | 356.8 |
| 1967..... | 5.6 | 751.8 |
| 1968..... | 6.9 | 945.0 |
| 1969..... | 12.6 | 1,862.1 |
| 1970..... | 8.1 | 1,208.1 |
| 1971..... | 7.9 | 1,163.5 |
| 1972..... | 7.4 | 1,173.3 |

¹ Estimated.

Thus it is easy to see that the inadequate pay given our military over the years is being corrected as evidenced by the record for the past 8 years. These increases were provided despite the huge cost of the war in Vietnam. They were long overdue.

However, amendment No. 76 ignores raises of \$1 million in H.R. 6531 plus the \$1.2 billion given in January of 1971, and the \$1.2 billion scheduled for January 1972. The authors of this amendment want to add another \$1.7 billion and bring the total to nearly \$5 billion within the span of 1 year.

TWO-STEP APPROACH SOUND

At this point it seems wise to stop and ask ourselves how all this has come about. The answer is simple. The administration proposed to bolster its move to the all-volunteer armed forces plateau in two major pay steps. The first step in fiscal year 1972 called for a military pay increase of about \$1 billion.

The second step called for another significant pay hike in fiscal year 1973, but this follow-up step was to be structured only after a study of the results derived from the initial step. The idea was to see how the enlistment bonus worked, to see how the higher pay in the lower grades affected reenlistment bonuses, and so on.

Now, what has happened is that the pressure from somewhere for an all-volunteer armed force is so great the authors of this amendment want to do it all in 1 year. Thus, the additional \$1.7 billion which is not budgeted.

The Senate should also realize that these pay increases, as needed as some of them might be, are not one time expenditures. If we add \$2.7 billion this year then we have to spend \$2.7 billion next year, the next year and so on.

Mr. President, I would be the first to admit that our military personnel need pay which is competitive with civilians in like jobs. We have been moving in that direction as evidenced by the figures I have presented.

However, if this amendment is passed the Congress would be setting pay levels and establishing special pay rates without any justification from the Defense Department.

Under the committee bill over \$900 million in basic pay increases have been approved. Of this amount \$850.3 million or 93.6 percent go to personnel with under 2 years' service. The findings from this initial step will impact on what distribution will be recommended for the followup raises next year.

Before approving an additional \$1.7 billion I think the Congress should have the benefit of knowing why these funds are distributed at the various levels proposed in this amendment. In other words, why so much for housing, so much for pay increases to officers, so much for pay hikes to E-1's through E-4's and so on. There must be some reasoning for such large increases and to date we have had none. The figure being used for this hike is merely a planning figure squeezed out of the Department of Defense and lacking approval of people like the Joint Chiefs of Staff, the Secretary of the Army, and many others in positions to make sound recommendations.

FAVORS \$1 BILLION PAY HIKE

Mr. President, I strongly favor the \$1 billion annual pay raise proposed by the Senate committee of which I am a member. Next year it would seem appropriate to make further increases based upon studies made between now and then.

It strikes me, however, that it is unwise for the Senate to authorize an additional \$1.7 billion in pay raises to this bill when there has been no hearings or study of this proposal. This \$1.7 billion figure is a planning figure developed by the Defense Department. The Senate has not heard one word of testimony regarding it.

It seems fair to ask my colleagues would they approve \$1.7 billion for a weapon system or a social program without the Senate having had hearings on it. I think not.

SERVICEMEN AND POVERTY LEVELS

Going to another point on the pay proposals, Mr. President, I would like to reply to the volumes of material placed in the RECORD that this country is not paying its servicemen enough to keep them off public relief rolls.

Under the \$1 billion Senate pay increase this deficiency will be largely corrected. At present the Department of Defense reports some 4,275 military families fall below the minimum level set in the President's family assistance plan. The Senate pay hikes would reduce this number to 778. While this is still too many, it must be realized that these families receive free medical care and other privileges not available to the millions on public relief.

All of these facts, Mr. President, must be viewed in the larger context of where our defense dollar is going.

Pay and related costs have increased by \$17.6 billion in the defense budget since fiscal year 1964, an increase of more than 80 percent. Over the same period defense manpower has decreased by 3.5 percent.

In other words, we are paying much more to military and defense employees but at the same time their numbers are decreasing.

The proportion of the defense budget devoted to pay and related costs has increased from 43 percent in fiscal year 1964 to 52 percent in the current fiscal year. Thus, over half of the defense dollar goes to manpower costs.

It also might be of interest to know that the Soviet Union, our chief rival, spends only about 25 percent of its defense budget for manpower costs. Further, the Soviets are maintaining a force of some 3.3 million compared to the expected U.S. level of 2.4 million.

Nevertheless, there is not a Member of this Congress, to my knowledge, who wishes to see U.S. military personnel poorly paid. In fact, the very purpose of the bill on the Senate floor today is to raise that pay to a more equal level.

Before leaving the pay issue I would also like to comment upon the fact that the \$1 billion pay hike proposed by the committee goes mainly to the lower grades where the need is the greatest. Of course, the January 1971 and 1972 automatic increases which I referred to earlier are paid across the board.

It should also be realized that since 1963 there has not been a basic pay increase for every person in the services each year. Some years the basic pay increases did not apply across the board and usually the ones left out were those in the lower grades. The Senate committee proposal is primarily structured to correct this deficiency.

Also, the Senate should realize that the \$1.2 billion pay increase for the military in January of 1971 and 1972 just keep our uniform personnel at the same pace of civilian workers in government. Thus, there will be a need for a significant pay increase for all grades as the second step in providing more equal salaries for military personnel.

MORE HOUSING PAY NEEDED

Finally, I am favorably inclined toward an increase this year in the basic allowance for quarters which was approved by the House. Our service personnel must be given adequate funds for housing their families in today's high cost housing market. It is not right to ask a man to fight for his country in Vietnam and allow his family back in the states to live in substandard housing.

My concern as regards this area will be expressed when this legislation reaches the conference stage with the House of Representatives. My concern is especially for the enlisted grades and lower officer grades whose present housing allowances simply do not meet the costs of even modest housing.

Mr. President, in closing my comments on the pay issue let me say I favor and will work in committee to see that service personnel receive adequate pay. While I have serious doubt about the all-volunteer armed forces I favor the pay increase in the committee bill of \$1 billion and would certainly support another pay increase of some degree next year. However, to determine the distribution and size of the fiscal year 1973 pay increase on the Senate floor in 1971 without hearing and study would not be good personnel management nor fiscally responsible.

Mr. HUGHES. Mr. President, many of us are aware that the families of many young Americans who are called to military duty qualify for welfare assistance because of the low rates of pay for our lower ranking servicemen.

The Department of Defense is not able to supply accurate figures of just how many servicemen qualify for welfare benefits, but under today's pay rates the figure seems to be in the thousands. In fact, 1 year ago the Defense Department Comptroller, Robert C. Moot, testified:

There are 43,000 military families whose military pay is insufficient to meet the poverty line pay level.

Pay raises since that time seem to have reduced this figure. The proposed family assistance plan of the administration has been used as the standard for comparing military pay with poverty guidelines by the Bureau of Compensation studies of the Department of Defense. This family assistance plan standard is comparatively stringent, because in some States some families qualify for benefits who are not eligible under the family as-

sistance plan standard. According to figures which I have received from the Office of the Assistant Secretary of Defense for Manpower and Reserve Affairs, on January 1, 1971, the estimated number of families who could be eligible for welfare benefits under the proposed family assistance plan was 4,275.

If the pay increases recommended by the Senate Armed Services Committee are adopted in the Senate, there will still be 778 military families eligible for assistance on this standard.

If title IV of amendment 76 is adopted, this number will be reduced to 95 families who would be eligible for token benefits of less than \$10 per year.

But as I have said before, the real issue is missed if we mention just the 778 families who would be eligible for benefits according to this standard. The real issue is: Do we want military families living near the poverty line? The letters all of us receive from servicemen dramatically illustrate how demeaning, shameful, and intolerable their situation is when they are forced to live at this subsistence level. And that situation will not be corrected until the higher pay rates are adopted.

Mr. President, if there is no objection, I would like to include at this point in the CONGRESSIONAL RECORD letters I have received from military servicemen and their wives, along with letters from the White House Conference on Youth, the American Civil Liberties Union, and an article from the Washington Post entitled "Welfare, Extra Jobs Sustain GI Families."

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

U.S. AIR FORCE, GERMANY,
May 17, 1971.

HON. HAROLD E. HUGHES,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUGHES: As a former Iowan I write to you. My husband is a Regular Air Force Captain; we are stationed in Germany. We have a "typical" American, middle-class family, 2 sons and a dog. We are young, but we are not radicals. We would like to see the American system prevail for the duration of our grand-children's lives. We would like to see also an all volunteer force for all branches of the military.

But somehow even we are becoming discouraged with the slow process of the withdrawal of troops from our Viet Nam fiasco. We are discouraged with the cost of housing on the economy (we can not get housing on base for awhile) and now our American dollar is worth less, so costing us more for rent in Deutch marks.

The Senate has rejected the military boost for housing allowance. Why? The cost of living is not cheap here, as I'm sure you are aware, and many airmen live in absolutely substandard housing. Even us who are more fortunate have an inadequate house, one which costs us our housing allowance. It is small, no bathtub.

How can the U.S. achieve an all volunteer force? Never at this rate!

I know it is within your power to help us out.

Another question: Just why are so many American troops in Europe, especially Germany? It seems this is part of the reason our

dollar is so shaky now. It seems a troop reduction here is a good idea and imperative.

Let's bring our troops home and take care of American problems, not other people's, if not give us more money so we can live here!

Sincerely,

MAY 10, 1971.

HON. HAROLD HUGHES,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HUGHES: I read in the 5 May 1971 issue of *Army Times* where the Senate Armed Services Committee has voted to delete the boost in quarters allowances from the current military pay bill. Sir, I feel that this would be grossly unfair.

Before coming to Vietnam I was stationed at Ft. Riley, Kansas. Due to inadequate bachelor officers' quarters on post I was forced to seek quarters on the local economy. As a single second lieutenant I was drawing \$85/month quarters allowances. Liveable housing on the local economy ran upwards of \$125/month when it could be found (which was seldom). Finally, another second lieutenant and myself found a "decent" apartment to share at \$190/month. Not counting the utilities and commuting expenses this meant that each of us paid \$10/month out of our own pocket for minimal housing. Adding the other expenses associated with living off post, it took quite a chunk out of a second lieutenant's pay.

While over here I have extended my service obligation by two years. Upon my return to the States I will be assigned to a 45-man Army Advisory Group in Oklahoma City, Oklahoma. Again I will be forced to seek quarters on the local economy. However, due to the small size of the unit, I doubt that I will be able to find another officer with whom I can share an apartment. This means that I will have to bear the full cost of maintaining an apartment. As a first lieutenant my quarters allowance will be \$95/month. I doubt seriously that I will be able to find adequate housing at a price anywhere near this amount. I expect to end up paying \$50-\$75/month out of my own pocket for decent quarters.

Although the goal is supposedly an all volunteer Army, forcing junior officers to pay for quarters out of their already meager salary will certainly not achieve this goal. I can assure you that it is not the choice of the officer to seek quarters on the local economy. The truth is that most Army installations just do not have sufficient quarters for all officers and the junior officers have lowest priority. Pushing these officers into what is usually an already tight housing market further expends the demand and, inevitably, the price goes up. Until such a time as the Army can provide adequate quarters the quarters allowance should be increased to fully cover the cost of obtaining quarters on the economy.

This is the first time I have even written to a member of Congress but I feel so strongly on this subject that I had to express my views. Thank you.

Sincerely,

APRIL 8, 1971.

DEAR SENATOR HUGHES: I am a secondary school teacher from Iowa. I enlisted in the U.S. Army in June of "70." I do not regret serving my country. So far the Army has been good for me. Due to my class standing I will be unable to be promoted until 21 April 1971. I am disappointed that I could be made CPL but I am not complaining.

I am married and have a six year old boy. My wife is expecting again. We are going to

have a very, very hard time living on PFC pay. We understand quarters allowance for PFC is coming into effect 1 July but \$180 and \$105 a month just isn't enough to live on. I don't see why I should be punished this way after going four years to college and teaching. I worry most of all for my children. This brings me to the main reason for writing to you, Sir. I would appreciate your supporting the pay raise for lower enlisted personnel now before the Senate. Possibly you might not be in favor of the bill it is attached to but for all those persons like me who had to join the service from the teaching profession I plead for your support.

I feel you are a good Senator and that you have potential for a great career in politics in the future.

Sincerely,

WHITE HOUSE CONFERENCE ON YOUTH,
Washington, D.C., May 17, 1971.

HON. HAROLD E. HUGHES,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUGHES: As Representatives of the Task Force on the Draft and National Service of the White House Conference on Youth, we would like to share with you a summary of our deliberations. The Conference was held in Estes Park, Colorado, from April 18-22. Our group was composed of Defense Department representatives, Selective Service officials, business leaders, Members of Congress, and a broadly representative group of American youth, including many active duty servicemen.

While there were spirited discussions over matters of timing and implementation, there was unanimous agreement on the need to end the draft and create an all-volunteer force. Conscription has been in existence for only 34 of the nearly 200 years since our Nation proclaimed its belief in the freedom and dignity of the individual in the Declaration of Independence. When the draft has been used, it has been selective and discriminatory, rather than universal. Compulsory military service has divided our Nation and alienated its young people.

Studies by the Department of Defense, and by the President's Commission on an All-Volunteer Armed Force—which was headed by former Secretary of Defense Thomas S. Gates, and included two past NATO Commanders, General Alfred Gruenther and Lauris Norstad—have shown that the volunteer force is both feasible and desirable.

The first essential step in creating a volunteer force is to establish a reasonable pay standard for our men in uniform. For too long the military pay structure has slighted the first term G.I. Although the federal poverty level is \$3,900 for a family of four, the married recruit with two children is paid only \$3,500. Many Task Force members described heart-rending situations of poverty in the military. We find it intolerable that our society calls upon its youth to serve in the armed forces and then forces many of them to depend upon welfare and food stamps for survival. Regardless of one's views on the draft, we hope that the pay increases which recently passed the House will merit your support.

Other improvements designed to eliminate reliance on the draft (which are detailed in our final report) include providing decent housing, offering challenging jobs, eliminating the so-called "Mickey Mouses" aspects of service life and encouraging the public to accord military personnel and the uniform they wear the respect they deserve.

The Advisory Report to the Task Force argued for a one year extension of the draft to provide a transitional period to the volun-

teer force. It was contended that a year would allow sufficient time for the military personnel reforms to take effect, and that a limited extension would put the necessary pressure on the bureaucracy to expedite the policies needed to end the draft. It was also noted that the one-year extension was consistent with national security requirements, because Congress would retain the authority to reinstate the draft if needed to sustain our defense capability.

Many Task Force members were curious as to why Congress reviewed military hardware procurement on an annual basis, but chose to avoid yearly discussion of military manpower procurement—particularly in view of the demonstrable inequities in the draft. Some said it was hypocritical of the Nation's leaders to ask young people to "work within the system," and then not allow the system to hold an annual review of a policy which deeply affected their lives.

The one-year recommendation was closely debated; some advocated a longer extension to provide a smoother transition while others held that with over 2 million true volunteers in today's military, the draft could be ended now, consistent with national security requirements. By a close margin, the Task Force voted to recommend to end the draft as of June 30, 1971. There was substantial agreement, however, on the need to continue selective service machinery so that the draft could be quickly reinstated in time of national emergency.

Recognizing the possibility that there might be a transitional period, our Task Force recommended the following draft reforms: an end to student deferments; local board membership restricted to ages 18-55, with a maximum five years per term; right to legal counsel and personal witnesses during appeal; tests for sickle cell trait during medical examinations; and right to appeal pre-induction physicals through re-examination at a VA Hospital or different Examination Station.

We rejected compulsory civilian service as an alternative to the draft. However, we recommended that under the auspices of the Action Corps, support be provided for volunteer service projects which are locally conceived and directed. We therefore proposed that appropriations be granted to provide training for approximately 200,000 part-time volunteers and supervisors in order to test the feasibility of greater Federal Assistance to locally designed and Administered programs of work-study and service-learning.

We have previously submitted for your consideration the Advisory Report which was the basis for our deliberations. Any major changes from the Advisory Report which were made in Estes Park have been noted in this letter. A final Report will be sent to you upon publication.

We believe that the Task Force on the Draft and National Service provided an opportunity for a meaningful dialogue between our Nation's leaders and its young people. We hope you will give our views serious consideration.

RICHARD A. GRAHAM,
Former Director, Teacher Corps.
ALAN S. CAMERON,
Lieutenant, SC, USN.

AMERICAN CIVIL LIBERTIES UNION,
New York, N.Y., May 20, 1971.

DEAR SENATOR: The United States Senate is now considering the Schweiker Amendment to H.R. 6531; a section of that amendment would increase the military pay package from the \$1.0 billion voted by the Senate Armed Services Committee to \$2.7 billion, the amount previously approved by the House of

Representatives. The American Civil Liberties Union urges you to support the pay section to the Schweiker Amendment.

The low pay currently offered by the armed services is one of the more glaring inequities tolerated by our society. Current military pay levels truly constitute a "tax-in-kind" by which members of the armed services subsidize those not in uniform. We do not permit this type of taxation to exist in any other segment of our society.

Elimination of this abuse is desired on its own merits. Moreover, low pay levels make it more difficult to recruit and re-enlist military personnel. As this nation moves toward an all-volunteer service—the stated goal of this Administration—it is imperative that the armed forces offer compensation that is adequate, fair, and competitive with pay levels available in the civilian sector of the economy.

The additional money authorized by the Schweiker Amendment represents only a fraction of our current military expenditures. It would be a small price to pay in order to expedite elimination of a system that taxes those who serve. As the President's Commission On An All-Volunteer Armed Force has documented, the current pay levels only hide the actual cost of the military services. For the taxation is never recorded as either a receipt or an expenditure. The Gates Commission places the unrecorded cost for first-term servicemen alone at \$2 billion. Higher pay will increase rates of voluntarism and reduce the actual total cost of the armed services by ending an artificial and misleading accounting system.

The American Civil Liberties Union strongly urges that you support this effort to bring about a greater degree of equity into military service and to eliminate a system that places an unfair burden on both conscripts and volunteers.

Very truly yours,

LAUREN SELDEN,
Field Development Officer.

[From the Washington Post, May 9, 1971]
WELFARE, EXTRA JOBS SUSTAIN GI FAMILIES
(By Representative WILLIAM A. STEIGER)

An old service joke holds that "if the Army had wanted you to have a wife, it would have issued you one." For today's young soldier the joke rings hollow. His wife and children are dependent for survival upon a military compensation system that is a national disgrace.

Most shameful is the treatment given GIs in their first term of duty. Largely as a result of the draft, 23 per cent of U.S. military personnel in their first term are married men. For these 330,000 servicemen, the basic pay structure does not even admit the existence of family support needs. According to the U.S. Code Title 37, Section 403a, "A member in pay grade E-4 (less than four years of service), E-3, E-2, or E-1 is considered at all times to be without dependents."

A review of first-term salaries shows the near-desperate plight of servicemen at low levels. The basic pay of a recruit is \$134 a month. If he lives off the post, he receives an allowance of \$60 for quarters and another \$46.23 for subsistence plus about \$20 a month tax advantage, for a total compensation of \$3,114 per year. With one child he receives a scant \$30 a month, \$15 for the second, and nothing for additional children.

The financial penalty imposed on first-terms becomes starkly apparent when we compare the \$3,500 of a married recruit with two children to the federal poverty line of \$3,900 for the same size family. Since the families of junior enlisted men are far below this level, how do they get by? Some do not.

Their families break under the strain. A recruit from Oregon, stationed at Ft. Gordon, Ga., describes a familiar pattern:

"Getting settled into marriage wasn't easy for me because my wife was the real dependent type. When I got drafted, she begged me not to go, but I felt I had an obligation. Before I went in I tried to make provisions for her, but the economy was so tight, she just couldn't find a job. After I was in, things became bad financially. She tried to get on welfare, and even though our income qualified, the agency said 'no' because being in the service made me a 'fully employed person.'

"That was really the last straw for her. She wrote me that she just wasn't strong enough to make it alone and she wanted a divorce. I asked for a compassionate reassignment, but couldn't get it so I went to the Mental Hygiene Unit, Community Services, and three chaplains, but got nowhere—the chaplains even said that if that was the way she was, I should forget her because she wasn't worth it. My captain said I could apply for reassignment but probably wouldn't get it. He was right. Now I don't have a wife. I'd like to know why you expect us to be strong."

GI FAMILIES ON WELFARE

The problems of inadequate pay are accentuated because the first-terminer is also denied a host of benefits that are given to careerists and are essential to compensate for the dislocations associated with military life.

When making changes of station, careerists are given free travel of dependents, transportation of household effects, dislocation allowances, trailer allowances, transportation of automobile overseas, overseas allowance and evacuation allowance. If they are unaccompanied, careerists receive a \$30 a month family separation allowance. But the underpaid and often-moved first-terminer is ineligible for all of these benefits.

Even families who remain together face a series of unpleasant alternatives. One of these is applying for welfare payments.

No one knows exactly how many servicemen are receiving public welfare today. A 1969 Defense Department survey of state welfare directors yielded only fragmentary results but brought to light the fact that 21 states refuse to give aid to service families, denying servicemen benefits available to civilians at similar income levels.

Rules for welfare payments vary tremendously from state to state. An Army private from Buffalo interviewed at Ft. Gordon was luckier than many. "Where I came from," he said, "they give welfare to anybody with an income of below \$3,800, so my family has been on relief pretty much since the day I finished basic training."

A Californian in the same pay grade, however, would be out of luck. Richard Winsor, an assistant county welfare director in California, was quoted in the Sacramento Union:

"It doesn't really matter what their income level is. We consider the military man a 'fully employed person.' You're dealing with an intact family with the father fully employed—and to qualify for aid, they have to meet a deprivation requirement either through the absence of the father or the unemployment of the father."

Even where the GI is "eligible" for welfare it is often denied him. A study by former Army social work officer David N. Saunders reported that New Jersey is using a "subterfuge, the legal status of military reservations, to deny public welfare benefits to the residents of the military community. The state contends that, because these installations belong to the federal government, the inhabitants do not reside in New Jersey."

FOOD STAMPS FOR SOME

Since last July, the poverty problem of low paid servicemen has been alleviated somewhat by the acceptance of food stamps as currency at military commissaries. During a recent visit to Ft. Gordon, a social worker told me the Augusta Welfare Department has made food stamps available to any married E-1 or E-2, and all E-3s living in Richmond County with at least one child. If these criteria had been applied on a uniform basis in fiscal year 1970, 142,527 servicemen could have received public assistance in the form of food stamps.

Yet, as with other welfare programs, the criteria are restrictive. Five states and numerous localities do not participate in the program. Ft. Gordon, for example, is located in Richmond County which does participate in the food stamp program—but most married recruits live in the low-cost trailer parks in adjacent Columbia County where food stamps are not made available. Hence, the fact the commissary now accepts food stamps is meaningless for the people who need relief the most.

Even where food stamps are available, it is often difficult for the GI to obtain them. Welfare offices are open only while the soldier is on duty. For the "privilege" of requesting food stamps the soldier must first obtain leave from his commanding officer so he can join the long line of people waiting to fill out complicated forms that may require him to make second and third trips. Social work officers at both Gordon and Ft. Meade, Md., noted that it was not unusual for a GI to give up after one try, rather than ask his CO for another leave.

Pride may explain a man's refusal to apply at all. As one Ft. Gordon recruit from Newark put it, "I'm a man and I've got some pride, and I'll be damned if I'm going to tell my wife to beg for food stamps."

The first-terminer who must feed a family faces an almost hopeless task even with food stamps. Government standards for a low income budget allow a family of four a minimum \$1,905 a year for a nutritionally adequate diet. But the GI's subsistence allowance is only \$554.76 a year. Even the \$846 in food stamps available to a family of four only partially closes the gap. The 20 per cent savings in military commissaries somewhat reduces the deficit; yet this advantage has little meaning to the GI without a car who cannot make regular trips to the commissary, or to the soldier on an unaccompanied tour whose dependents are not located near a base.

Many junior enlisted men save money to feed their families by accepting poor housing. Unlike the careerist, the first-terminer is not entitled to free government housing. Even at the maximum of \$105 a month, his quarters allowance falls \$169 below the federal minimum of \$1,429 required for adequate low-cost housing. Around a suburban base such as Ft. Meade, the GI can expect to pay about \$1,600 a year for a decent apartment. Since his quarters allowance is inadequate, he must dip into his meager base pay.

At Meade the housing referral office declares most inadequate housing "off limits" to military personnel. At Gordon, where the Signal School draws a greater percentage of first-terminers, the housing office feels it cannot take such steps because there would be nowhere else that the married recruit could afford to live. As a result, officials estimate that 1,600 Ft. Gordon families live in substandard housing.

Some of the housing around Gordon must be seen to be believed. In a trailer park at Grovetown, a stench of burning rubbish and sewage fills the air. "It's not so bad," say a

soldier from Mississippi. "You only get the smell every two or three days. The main problem comes when it rains and the sewage backs up around the trailers. Then I get worried about the kids."

An apartment complex in the area is equally dismal. Discarded machinery, rusted appliances and tin cans lay strewn among the cinderblock structures. Jagged pipes, with no visible connection to anything, rise aimlessly from the ground like the weeds that cover them. Indoors, conditions are cramped, with a kitchen about as big as a linen closet and a single bedroom barely big enough for a bed and two small cots.

"It's just great that they are giving the single guys partitions in the barracks," one young corporal said. "But with these two kids here, I wish the Army would do something about letting me get a place where my wife and I would have a little privacy."

An effort is under way to improve military housing. Congress on its own initiative authorized some low income housing financed with grants from HUD's Title 235 subsidy program, but thus far it has only scratched the surface. At Meade, for example, only half of the eligible careerists are able to live in government quarters, and many of those units are outmoded and in poor repair. At Gordon fully 81 per cent of men qualified for family housing are forced to live on the economy. Since the Defense Department currently cites a deficit of 110,733 family units for careerists, it is unrealistic to expect that first-terminers will be provided housing in the near future. So long as the current level of military pay exists, recruits can anticipate living in "Grovetowns."

How does a military family survive? A community services officer at Ft. Gordon answered that question with a bleak picture of bare subsistence existence:

"If you take the typical married first-terminer, add his base pay, allowance, and subtract his taxes and savings bond payments, he has about \$240 a month. You can rent a lousy place for \$100 including utilities and roaches, but then you've got to add transportation and carfare because he's living off base—about \$45-50 a month in payments for his car and another \$30 for gas and repairs. If you are very frugal, and do all your shopping at the commissary, you can get by on \$50 a month. So \$230 is taken up, which leaves you \$10 for recreation—providing everything else is perfect. Of course, if the kids need dental care or glasses, forget it!"

A 1970 Defense Department survey revealed that over half the wives of first-terminers worked to supplement their incomes—117,000 full-time and another 49,000 part-time. Considering the problems of caring for pre-school children and obtaining transportation in a one-car family, this is a high percentage. There is a further problem in the scarcity of employment opportunities for unskilled young women. At Ft. Gordon, a community services officer said he could place fewer than 5 per cent of the wives who sought work.

Moonlighting by servicemen is fairly common. Nearly every junior enlisted man with whom I spoke expressed the desire to have a second job. But for recruits, aside from the general tight job market, there is a serious difficulty in moonlighting because of the "after hours" assignments of guard duty, KP and sanitation patrol. Nevertheless, the Defense Department estimates that 134,000 first-terminers manage to hold second jobs to supplement their incomes. The typical GI works 19 hours a week on his second job, for an additional income of only \$33.

Senior military officials with whom I discussed this problem have complained about the effect of such moonlighting on the training and readiness of certain units. "You would be astounded at the number of GIs

you see pumping gas and working the hamburger joints," a sergeant major at Ft. Meade said. "No wonder they are dragging half the day."

Still, officials are reluctant to curtail moonlighting because they fear a serious morale problem would result from the recruits' loss of income.

STRAIN OF MOONLIGHTING

Visits with recruits who have been able to find a second job suggest that while the extra money may help, the added strain on the man and his family is great. A draftee from Saginaw, Mich., who's had two brothers serving in Vietnam, shared a poignant series of experiences at Ft. Meade:

"After I got drafted, I left my wife and two kids with her parents. When GM went on strike, my father-in-law was making only \$40 a week off the strike fund and it was just too much of a burden to keep my family in his home.

"I can't get base housing, and all the decent places on the housing list are too expensive. On my own I found a dingy little room about 14 miles from base. Having only one room is a hassle for us, especially with the two kids.

"Things were okay until my car broke down. I can get a ride with a lady near us in the mornings, but since I work at the PX several nights a week I have to hitch home. I can't use the commissary without a car, and we are getting hit pretty hard at the supermarket.

"My wife and I can't spend much time together since I leave at 6:30 in the morning, and don't get back until 11 most nights—and I worry a lot since we can't afford a phone. Fortunately, I've got the talent to play a band. We get jobs every weekend for about \$20. My wife gets one of the neighbors to baby-sit; she comes to listen, and we get to spend some time together during the breaks. I guess I'm luckier than most guys who can't even get jobs."

OVERSEAS IS WORSE

Life for the enlisted man with family in Europe is, if anything, more difficult. According to an unpublished study by Capt. Fletcher Hamilton, chief of social work of the Neuro-Psychiatric Clinic at the Nuremberg Army Hospital, "there is a definite 'poverty cycle' for many of the married enlisted men" serving in Europe. GIs go into debt to move their families overseas. Then, because they are denied government housing, they must try to live on the German economy. The government transports furniture only for careerists, so GIs go further in debt to buy household appliances. And even when they have left their wives and children in the states, they are denied the \$30 family separation allowance given monthly to officers and senior NCOs. Job opportunities for servicemen and their wives are virtually nonexistent abroad. While there are commissaries near most bases, food stamps are not available overseas. Most services of HEW and state welfare agencies likewise are unavailable.

At Ft. Gordon, a mental hygiene officer offered a case history:

"Ten months after Ed was married he was assigned to Germany. Since the military does not pay for family transportation for a first-terminer, he decided to leave his wife in the States. After two months overseas, he decided that was a helluva way to begin a marriage, and his wife had just had a baby—so he borrowed money to get her over and pay for an apartment.

"Two months after she arrived, he came down on orders for Nam. Ed borrowed more money and sent his family back to the States. He was really low on funds. All of his base

pay went to repayments on the loan, leaving only the \$135 allotment for his wife. Since the kid was only a few months old, she had no way of supplementing that income. It just became too much of a strain for her and she asked for a divorce. He managed to get an emergency leave from Vietnam, but wasn't able to change her mind. On top of his debts, the costs of divorce were just too much for him. Now he won't get on a plane to go back to Nam. It's got nothing to do with the war—he's just a broken man."

Admittedly, the military does try to take care of its poor and disadvantaged. On my visits to Army installations I was most impressed by the sincerity and dedication of the men assigned to Army Community Services, and the warm generosity of the servicemen's wives who give countless hours in volunteer programs. Unfortunately, these programs are often understaffed and little publicized. A financial officer's comments underscore the hopelessness of the situation:

"We can't do anything about many of the serious problems that are brought to us. Army Emergency Relief provides financial assistance only in the case of an unusual circumstance. In the Army poverty isn't an emergency. It's a way of life."

DRAFT HOLDS DOWN PAY

A question that must occur to all who are shocked by the financial desperation of enlisted men in the U.S. Army is a simple one: How did it happen? We are all familiar with what seem to be frequent military pay raises. What is less familiar is the fact that these raises neglected the first-term enlisted man. To put it simply, the draft has made first-term enlisted men's salary increases unnecessary.

The draft survives as a last vestige of the ancient custom whereby the rich and powerful forced the poor and weak to provide services at subsistence wages. Conscription has been justified by the Supreme Court as a valid power of the State in times of "grave emergency or national peril." But the recent legislative history of military pay makes it plain that the primary function of conscription has been to depress military compensation to a point where a disenfranchised minority of the citizenry has been compelled to bear a grossly disproportionate share of the costs of defense.

Regardless of what Congress finally decides about the draft vs. a volunteer army, immediate action must be taken to improve the lot of enlisted men. Current legislation which would raise the recruit to \$4,991.48 goes a long way toward fairness. It has been argued that the \$2.7 billion authorized in this bill could well be spent in other areas of need in our society. Rep. Ronald V. Dellums, a leading black spokesman, answered this argument when he said:

"Those who enlist in the military should receive a fair income. Opposition to pay increases on the grounds of inflation or increased government spending merely continues the exploitation of first-term servicemen by the taxpayers."

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

DESIGNATION OF "NATIONAL PEACE CORPS WEEK"

Mr. BYRD of West Virginia. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Joint Resolution 29.

The PRESIDING OFFICER (Mr. DOMINICK) laid before the Senate the amendment of the House of Representatives to the joint resolution—Senate Joint Resolution 29—to provide for the designation of the calendar week beginning on May 30, 1971, and ending on June 5, 1971, as "National Peace Corps Week", and for other purposes which was to strike out the preamble.

Mr. BYRD of West Virginia. Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

ANNOUNCEMENT OF THE LEADERSHIP'S INTENTIONS WITH RESPECT TO REORGANIZATION PLAN NO. 1 OF 1971

Mr. BYRD of West Virginia. Mr. President, it is my understanding that Reorganization Plan No. 1 of 1971, entitled, "To Consolidate a Number of Volunteer Programs into One Agency, Action," has already been, or will shortly be, reported from the appropriate Senate committee, and it is my further understanding that the last day on which the Senate can take action thereon would be Thursday, June 3, 1971.

The majority leader has asked that I state—in order that Senators may be put on notice—the leadership's intention, on tomorrow, to ask unanimous consent to set a time certain on which to vote on the resolution of disapproval, and the time certain which the distinguished majority leader has in mind is 11 a.m. on Thursday, June 3.

The majority leader intends to ask unanimous consent that time for debate on the resolution be limited to 2 hours, to be equally divided between and controlled by the appropriate Senators, to begin on Wednesday, June 2, at 3 p.m., and to run until 5 p.m., the same day.

Therefore, Mr. President, if such a unanimous-consent agreement is entered into, there would be 2 hours of debate on the disapproving resolution on Wednesday, June 2, from 3 p.m., extending until 5 p.m., and the vote—unquestionably, a roll-call vote—on the resolution of disapproval would occur at 11 a.m., on the following day, Thursday, June 3.

Does the distinguished assistant Republican leader have any comments on this subject?

Mr. GRIFFIN. No.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:30 a.m. Immediately following the recognition

of the two leaders under the standing order, there will be a period for the transaction of routine morning business for not to extend beyond 10 a.m., with statements therein limited to 3 minutes.

At 10 o'clock tomorrow morning the Chair will lay before the Senate the unfinished business. The time will begin running at that point, to wit, 10 a.m., on the Dominick amendment to title V of amendment No. 76, as modified, of the Senator from Pennsylvania (Mr. SCHWERKER). Time will be equally divided and controlled, and a vote will occur on the Dominick amendment at 1 p.m. tomorrow.

Immediately following the vote on the Dominick amendment, controlled time will begin running on the Hughes amendment—the so-called pay increase provision—and a vote will occur thereon not later than 6:30 p.m. tomorrow.

The Senate is therefore put on notice that there will be at least two votes tomorrow, and undoubtedly both votes will be rollcall votes; and, moreover, there may be amendments to the enumerated amendments, on which additional rollcall votes could very well occur.

In view of the fact that the time on tomorrow will be controlled, under the agreement, with votes scheduled at hours certain, the Pastore rule of germaneness has been waived for the entire day.

When the Senate concludes its business tomorrow, it will stand in adjournment until 12 o'clock noon on Tuesday, June 1.

ADJOURNMENT TO 9:30 A.M.

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 9:30 a.m. tomorrow.

The motion was agreed to; and (at 4 o'clock and 48 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, May 26, 1971, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 25, 1971:

DEPARTMENT OF STATE

Joseph F. Donelan, Jr., of New York, a Foreign Service Officer of class 1, to be an Assistant Secretary of State.

U.S. NAVY

Vice Adm. Francis J. Blouin, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

Rear Adm. Harry L. Harty, Jr., U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral-while so serving.

Rear Adm. Harry L. Harty, Jr., U.S. Navy, for appointment as Navy senior member of the Military Staff Committee of the United Nations pursuant to title 10, United States Code, section 711, vice Rear Adm. Frank W. Vannoy, U.S. Navy, reassigned.