assignment of students; to the Committee on the Judiciary.

By Mr. TEAGUE of Texas (for himself, Mr. BARING, Mr. CARNEY, Mr. DANIELSON, Mr. DORN, Mr. DULSKI, Mr. EDWARDS of California, Mrs. GRASSO, Mr. HALEY, Mr. HAMMERSCHMIDT, Mrs. HECKLER of Massachusetts, Mr. HELSTOSKI, Mrs. HICKS of Massachusetts, Mr. HILLIS, Mr. MONTGOMERY, Mr. PUCINSKI, Mr. ROBERTS, Mr. SATTERFIELD, Mr. SAYLOR, Mr. SCOTT, Mr. TEAGUE of California, Mr. WINN, Mr. WOLFF, Mr. WYLIE, and Mr. ZWACH):

H.J. Res. 748. Joint resolution amending title 38 of the United States Code to authorize the Administrator of Veterans' Affairs to provide certain assistance in the establishment of new State medical schools; the improvement of existing medical schools affiliated with the Veterans' Administration; and to develop cooperative arrangements between institutions of higher education, hospitals, and other public or nonprofit health service institutions, and the Veterans' Administration to develop and conduct educational and training programs for health care personnel; to the Committee on Veterans' Affairs.

By Mr. ANDERSON of Illinois:

H. Con. Res. 347. Concurrent resolution to declare congressional policy regarding Vietnam; to the Committee on Foreign Affairs.

By Mr. HARRINGTON (for himself, Mrs. ABZUG, Mr. BADILLO, Mr. BURTON, Mr. EDWARDS of California, Mr. WILLIAM D. FORD, Mr. FRASER, Mrs. GRASSO, Mr. GIBBONS, Mr. HALPERN, Mr. HATHAWAY, Mr. HELSTOSKI, Mr. MITCHELL, Mr. PIKE, Mr. REES, Mr. ROYBAL, Mr. RYAN, Mr. SCHWENGEL, Mr. STOKES, and Mr. UDALL):

H. Con. Res. 348. Concurrent resolution to establish a select joint committee to be known as the Committee on Freedom of Information; to the Committee on Rules.

By Mr. PEPPER:

H. Con. Res. 349. Concurrent resolution expressing the sense of the Congress respecting the treatment of Soviet Jewry; to the Committee on Foreign Affairs.

H. Con. Res. 350. Concurrent resolution expressing the sense of the Congress toward ending the war in Indochina; to the Committee on Foreign Affairs.

By Mr. HALPERN (for himself, Mr. EILBERG, Mr. DUNCAN, Mr. ADDABBO, Mr. STRATTON, Mr. MCCLORY, Mr. DRINAN, Mr. COLLINS of Illinois, Mr. DOW, Mr. YATRON, Mr. SCHEUER, and Mr. ROSENTHAL):

H. Res. 509. Resolution expressing the sense of the House with respect to the negotiation of an American-Israeli Treaty of Friendship; to the Committee on Foreign Affairs.

By Mr. PEPPER:

H. Res. 510. Resolution relating to the withdrawal of the United States from Vietnam; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Dakota:

H.R. 9435. A bill for the relief of certain individuals and organizations; to the Committee on the Judiciary.

By Mrs. HECKLER of Massachusetts:

H.R. 9436. A bill for the relief of Mario Auciello, his wife and child; to the Committee on the Judiciary.

SENATE—*Thursday, June 24, 1971*

(Legislative day of Wednesday, June 23, 1971)

The Senate met at 10 a.m., on the expiration of the recess, 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:

God of our fathers and our God, amid the tensions of our times, unite all elements of the Nation in a firm spiritual alliance, that we may remain "one nation under God." Fortify us against all evil forces. May our armament be the arms of righteousness and our strength be in the sinews of the spirit. May the Nation achieve her greatest eminence in the everlasting verities which endure all change. May our supremacy be in the morality and virtue of the people, that we falter not in the things that matter most. Make us each ready to share the blame and the fame of our country, and may our frame rest in that righteousness which exalts a nation. Fire our spirits with a new determination to achieve justice and a full life for all men. Finally, so assure us of Thy presence working in us that we may live in peace with all men and be at peace with them. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, June 23, 1971, be approved.

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.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, beginning with New Reports.

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

The PRESIDENT pro tempore. The nominations on the Executive Calendar, beginning with New Reports, will be stated.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The assistant legislative clerk read the nomination of Laurence E. Lynn, Jr., of California, to be an Assistant Secretary of Health, Education, and Welfare.

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

U.S. TARIFF COMMISSION

The assistant legislative clerk read the nominations in the U.S. Tariff Commission, as follows:

Catherine May Bedell, of Washington, to be a member of the U.S. Tariff Commission for the remainder of the term expiring June 16, 1974.

Joseph O. Parker, of Virginia, to be a member of the U.S. Tariff Commission for the term expiring June 16, 1977.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

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

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

LEGISLATIVE SESSION

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

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

EXTENSION OF THE DATE ON WHICH THE COMMISSION ON GOVERNMENT PROCUREMENT SHALL SUBMIT ITS FINAL REPORT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 225, H.R. 4848.

The PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

H.R. 4848, to amend the Act of November 26, 1969, to provide for an extension of the date on which the Commission on Government Procurement shall submit its final report.

The PRESIDENT pro tempore. Is there objection to consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was ordered to a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-231), explaining the purposes of the measure.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

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

PURPOSE

The purpose of this bill is to provide the Commission on Government Procurement with additional time to enable it to complete its assigned mission, by extending its final reporting date until December 31, 1972. Under the statute which established the Commission and defined its duties, the Commission is required to make a final report to the Congress, together with its findings and recommendations, within 2 years after the date of enactment (Nov. 26, 1971). During consideration of that legislation, it was generally agreed that, although a 2-year period was expected to be sufficient to enable the Commission to complete its work, a limited extension could be provided, if later justified (H. Rept. 91–468).

For reasons which are detailed below, the Commission will be unable to complete its mission by the terminal date provided for in the enabling legislation, and, with the concurrence of the Office of Management and Budget and the Comptroller General, has requested the extension of time provided for in H.R. 4848.

REASONS FOR REQUESTED EXTENSION

According to the Chairman of the Commission, the principal bases for the requested extension are (1) a long delay in organizing the Commission; (2) an increased awareness and understanding of the complexity of the Commission's work; and (3) unanticipated difficulties in identifying and obtaining the services of large numbers of individuals to carry on and complete its mission.

With respect to the organization of the Commission, the enabling statute provided for the appointment of three members of the Commission by the Speaker of the House of Representatives, three by the President of the Senate and three by the President of the United States. The Speaker made his appointments in December 1969; the President of the Senate, in March 1970; and the President of the United States, in April 1970.

Thus, although the Commission was established in November 1969, its organization was not completed until April 3, 1970—approximately 5 months later—and its first organizational meeting was held on April 22, 1970. The Commission then proceeded to select the nucleus of a full-time staff, with special attention to key positions, and completed the selection of principal staff members and the core of its basic full-time staff by the summer of 1970.

With respect to the complexity of its work, the Commission proceeded to review the testimony in the Senate and House hearings and to discuss various procurement matters with experts in the field. These activities resulted in the identification of some 450 problem areas which were consolidated into 325 study topics. Thereafter the Commission found that the most effective manner of proceeding would be through the formation of study groups, each with defined areas of study, and to staff these groups with people from government, industry, and other parts of the private sector in order to enable it to obtain all possible viewpoints.

At this point, the Commission divided its work into two phases: a study group phase devoted to study group and special staff studies, and a commission study and deliberation phase, leading to its final report. The Commission realized that, if this plan of action was to be meaningful and effective, more time would be required to enable thorough study by the study groups and full and careful consideration by the full Commission. Since the study groups were not expected to be able to complete their work until the fall of 1971, it would be necessary to request an extension from the Congress, in order to afford the Commission adequate opportunity for careful study and analysis of the reports of its study groups. Thereafter, the Commission established 13 study groups to review defined areas over a 9-to-12-month period and to submit their findings and conclusions to the Commission. A list of the study groups and a summary of their defined areas is set forth in the appendix to this report.

With respect to the assembly of its study groups, it was the Commission's plan to build balance into the groups by recruiting for each of them, from within Government and without, persons with differing backgrounds and viewpoints. Defining the area of effort for these groups, locating experienced persons who could be made available to the Commission to staff the groups, and getting the groups underway involved a considerably longer period of time than originally anticipated. Thus, although the Commission had originally planned to have all groups formed and underway by the end of 1970, the last group was not assembled and operational until March of 1971.

In his testimony before a subcommittee of the House Committee on Government Operations, in which he detailed the problems encountered, as summarized above, the Chairman of the Commission stated that "the delay encountered in getting these study groups assembled contributes significantly to the need for extension of the life of the Commission." He stated further that he was "convinced that the basic objectives of Congress will be met by this Commission and that it will be able to submit a significant and informative report to the Congress for its consideration."

CONCLUSION

This committee, in approving the legislation which established the Commission on Government Procurement and prescribed its duties and responsibilities, pointed out that the Armed Services Procurement Act and the Federal Property and Administrative Services Act—the two basic statutes which govern military and nonmilitary procurement—were enacted more than 20 years ago; and that during the intervening period, there has been a phenomenal growth and expansion of Government responsibilities, activities, and expenditures. Thus, the Federal budget rose from $40 billion in fiscal year 1949 to $186 billion in fiscal year 1969; new departments and agencies have been created and numerous new Federal programs have been undertaken in an effort to cope with social and economic needs; and the military arsenal now requires multibillion-dollar weapon systems. Reflecting this rapid expansion, the dollar value of procurement awards for supplies, equipment, and services has increased from $9 billion to $55 billion during the same period. Furthermore, it appears that Federal procurement now involves a veritable army of procurement officers engaged in a highly escalating battle of paperwork, resulting in a situation which is often as baffling to the suppliers of goods and services as it is expensive to the Federal Government.

Noting that despite this phenomenal increase in Federal procurement and the magnitude of the expenditures involved, the committee observed that no comprehensive review of Federal procurement policies and practice had been undertaken since the first Hoover Commission filed its report in 1949. The committee concluded that the time had come for a close, hard look at the statutes, regulations, policies, procedures, and practices governing Federal procurement, and that a broad-scale, sweeping study is urgently needed if these pressing problems are to be resolved. (S. Rept. 91–427, pp. 4, 5.)

In the judgment of the committee, the Commission, whose membership includes two members of this committee, is making good progress and is well on its way toward the accomplishment of its mission.

Valid reasons have been advanced for the delays and a good case has been made for the proposed extension, which is supported by the Commission, the Office of Management and Budget, and the Comptroller General. It appears clear that, in an undertaking of this magnitude, the Commission should be given every reasonable opportunity to complete its vital mission and to furnish the Congress and the President with a blueprint for future Federal procurement policies and practices.

ESTIMATED COST OF LEGISLATION

The Commission estimates that the expenditure which can be attributed to the extension will be $1.4 million. Of this amount, approximately $400,000 will be incurred in fiscal year 1972 and the balance of $1 million in fiscal year 1973. The total cost of the Commission's operations, including the period of the extension, is estimated at $7 million. These estimates have been examined and concurred in by the House Committee on Government Operations (H. Rept. 92–145, p. 7).

THE MILITARY SELECTIVE SERVICE ACT

The PRESIDENT pro tempore. The Chair now lays before the Senate the pending business which the clerk will state.

The assistant legislative clerk read as follows:

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.

The Senate continued with the consideration of the bill.

AMENDMENT NO. 232

The PRESIDENT pro tempore. The pending question is on amendment No. 232 of the distinguished Senator from Indiana (Mr. BAYH).

The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, last session during consideration of the military procurement bill, I introduced—and the Congress passed—an amendment that required authorizations for the average annual active duty strength levels of the Armed Forces.

My amendment grew out of a successful effort by the distinguished Senator from Kentucky (Mr. COOK) and myself in 1969 to replace the outdated 5-million-man ceiling on the Armed Forces with what we then considered a more realistic overall limit of 3.2 million men. Continued attention to the question of congressional responsibility to raise and maintain armies had led me to the conclusion that the most effective way to meet that constitutional duty was to require annual congressional authorizations for manpower. In recent years, Congress has exercised tighter control over spending for military hardware by requiring annual authorizations for major weapons systems. Manpower is our most precious resource. It is also the most essential and most expensive portion of the defense budget. It should require the same—if not more—scrutiny than hardware items.

In an attempt to provide Congress with the information required to determine whether 2 million men, or 2.25 million, or 2.5 million men is a necessary general purpose force, my amendment required the President not merely to submit to Congress a written report recommending active duty strength levels, but specifically required "justification for the strength levels recommended and an explanation of the relationship between the personnel strength levels recommended, and the national security policies of the United States in effect at the time."

In compliance with this law, I had expected to see a detailed report showing the relationship between force levels and the contingencies outlined under our national security policy. I felt that if Congress could see where American forces were to be deployed, with what capability, in response to what threat, within the context of a total defense policy, we make a well reasoned choice from among alternative force levels, being careful as to balance such an authorization against competing domestic needs.

But in fact, Congress was directed to an abbreviated column of overall service force level figures in the shortened budget statement and referred to the traditional defense posture statement—with no effort made, let me emphasize, to relate the two.

I, for one, was not satisfied with this kind of an answer. To think that this obligation under public law could be fulfilled in a brief footnote on page 88 of the shortened budget is, in my judgment, pure fantasy, if one cares to be charitable about its description. The distinguished chairman of the Armed Services Committee, the Senator from Mississippi (Mr. STENNIS) also expressed to me that he was dissatisfied and that the entire Armed Services Committee was dissatisfied with this nonresponse. They have continued to request more complete information from Secretary Laird. Again, the answers to these congressional queries on projected manpower strength and deployment were incomplete.

On April 5, 1971, I myself wrote to Secretary Laird requesting unclassified information concerning the large increases made since 1964 in American forces in Southeast Asian countries other than Vietnam and on Okinawa. My questions were posed in the sincere hope that their answers might clarify the contingencies of the Nixon doctrine and better define the residual American commitment in Asia.

I ask unanimous consent that my letter to Secretary Laird and the Secretary's response be printed in the RECORD.

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

APRIL 5, 1971.

Hon. MELVIN LAIRD,
Secretary of Defense,
Washington, D.C.

DEAR MR. SECRETARY: President Nixon's strategic posture statement indicated a declining level of American forces in Vietnam. We in the Senate applaud this development, though we seriously question both the pace, the mechanism, and the circumstances of withdrawal. While the number of American military personnel in South Vietnam has visibly diminished, there is some doubt as to the future status of the large increments made to our forces elsewhere in Southeast Asia since 1964.

Any true modification of American policy in Southeast Asia should be accompanied by corresponding shifts in American force levels throughout the area. In the interest of seeing a decisive and substantive revision of American policy, I would like to request unclassified information concerning the number of American forces committed to Vietnam, deployed both within and outside of Vietnam itself.

I would like a determination of the current figures and 1964 figures for:

1. The number of Navy and Marine Corps personnel assigned to naval units operating in the South China Sea.

2. The number of Air Force, Army, Navy, and Marine Corps personnel based in Thailand.

3. The number of Air Force personnel assigned to B–52 squadrons and supporting units in Guam.

I would appreciate your cooperation in this important matter. Thank you.

Sincerely,

BIRCH BAYH.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., April 22, 1971.

Hon. BIRCH BAYH,
U.S. Senate.

DEAR SENATOR BAYH: This is in reply to your letter of April 5, 1971 to the Secretary of Defense requesting unclassified information pertaining to Vietnam.

The enclosed table provides U.S. military strength in South Vietnam, by service, from the end of 1960 through March 1971.

In answer to your questions concerning U.S. forces committed to Vietnam, but deployed in other areas, at the end of 1964 and the most recent period, the following information is provided:

Question 1. "The number of Navy and Marine Corps personnel assigned to naval units operating in the South China Sea."

Answer. In 1964, there were no U.S. naval forces solely committed to South Vietnam. Those naval elements that were in the South China Sea did make certain reconnaissance flights in the area of the Associated States of Indo-China, but it cannot be said these forces were committed to Vietnam. The current strength of the U.S. naval forces offshore Vietnam was approxmately 18,000 on April 15, 1971.

Question 2. "The number of Air Force, Army, Navy and Marine Corps personnel based in Thailand."

Answer. The United States military personnel based in Thailand, at the end of 1964, were engaged in the operations of the Military Assistance Advisory Group, in administering the Military Assistance Program, and in connection with the Southeast Asia Treaty Organization's Defense Plans. There were none committed to Vietnam. The total U.S. military personnel stationed in Thailand on December 31, 1970 were about 36,000 and are scheduled to drop, by July 1, 1971, to approximately 32,000.

Question 3. "The number of Air Force personnel assigned to B–52 squadrons and supporting units in Guam."

Answer. In 1964, there were no B–52 squadrons or supporting units stationed on Guam that were committed to Vietnam and this same situation is true today.

It is hoped this information will be of assistance to you.

Sincerely,

ROBERT C. MOOT,
Assistant Secretary of Defense.

Mr. BAYH. Mr. President, as is clearly evident, the way in which the Defense Department has complied with the provisions of this amendment stands in violation of the spirit if not the letter of the law. Once, again, as Senator SYMINGTON's forceful presentation on Laos has demonstrated, Congress finds itself without meaningful knowledge of our past or present Asia policy. When questioned as to the number of Air Force personnel assigned to B–52 squadrons or supporting units stationed on Guam, the Defense Department replied:

> In 1964, there were no B–52 squadrons or supporting units stationed on Guam that were committed to Vietnam and this same situation is true today.

But what do they mean by "not committed"? Is this the same kind of commitment that we do not have in Laos? Is not this the same kind of dissimulation that has been detailed in the New York Times publication of Pentagon documents concerning an earlier stage in the American involvement in Vietnam?

Not only does the failure to answer congressional inquiries on each level of American activity abroad damage the already-strained fibers of the delicate relationship between Congress and the Pentagon, but it also tends to undermine confidence in civilian and congressional control of the military.

Despite these recurring problems, Congress must continue in its efforts to determine how much military manpower is enough. In the face of urgent domestic needs, America can no longer afford to pour Federal dollars indiscriminately into the military budget—and over 50 percent of that budget goes for manpower costs.

But there are considerations involved which go beyond mere budgetary costs. There is the even heavier price which must be paid when young men's lives are risked and lost in a war which neither their own conscience nor that of the Nation can sustain. The anguish of Vietnam compels the Congress to consider with a new sense of responsibility all of the issues related to the role and posture of the United States in the world. As part of this process, we seek today to determine what force levels are genuinely necessary and most efficient in providing national security.

With this in mind, I would like to refer to the incisive Brookings Institution analysis of the 1972 Federal budget which poses serious questions about the cost-effectiveness of Secretary Laird's manpower proposals. The Brookings report, as the Fitzhugh Commission findings did, identifies a rising trend of inefficiency within the Defense Establishment. If the promised economies in military manpower and overall defense spending have been realized, they are not visible in the fiscal 1972 budget. Unit costs for manpower—when compared to baseline 1964 levels—have risen sharply. I ask unanimous consent that the following table from the Brookings analysis of the 1972 Federal budget be printed in the RECORD.

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

COMPARISON OF MANPOWER AND BUDGET COSTS PER ACTIVE MILITARY UNIT, BY SERVICE, FISCAL YEARS 1964 AND 1972

	1964	1972	Change (percent)
Army:			
Total manpower per active division	59,632	70,827	+19
Total budget per active division	[1] $1,130,000,000	$1,610,000,000	+42
Navy:			
Total manpower per active ship	716	918	+28
Total budget per active ship	[1] $23,300,000,000	$35,500,000,000	+52
Air Force:			
Total manpower per active aircraft	67	78	+16
Total budget per active aircraft	[1] $2,200,000	$2,400,000	+9

[1] Measured in constant 1972 dollars.

Mr. BAYH. Mr. President, it is clear from the figures in the table that today's forces, manned and supported at 1964 levels—the baseline of Secretary Laird's proposals—would cost $10 to $15 billion less than the current budget prescribes. While this is obviously an informal estimate, it raises grave questions about the management of our military. It seems to indicate that the "peace dividend," the incremental savings from deescalation in Southeast Asia, has been absorbed by a general purpose force grown fat on extensions of the power to draft.

Where are the economies that were supposed to be realized from deactivated divisions? What has happened to the reductions of maintenance costs that should have logically occurred as the Air Force switched from manned bombers to missiles? What are the savings that should have resulted from increases in the number of submarines relative to carriers in the Navy and the dismantling of the massive support base required for Vietnam?

These questions have not even been addressed, much less answered, by the Department of Defense. With the only available data suggesting that American taxpayers are getting less than their full dollar's worth for defense, it is no wonder that the credibility of the military has deteriorated in the public eye.

While the Defense Department presents 13⅓ Army divisions as active, general purpose force combat units, less than 1 in 4 of the men belonging to these units would actually bear arms in combat situation. The other three men find themselves occupied in maintenance tasks related to expensive and complex hardware—equipment ostensibly designed to amplify the combat impact of the individual soldier and thereby reduce overall manpower needs. The complexity of this system has reached such a level that one field officer was quoted in a recent newspaper interview as saying:

> The Army has gotten so heavy that we could never go to a place like Vietnam again without sending the engineers in two years ahead of the combat troops to build a base. And every time you put a fancy piece of equipment on the ground it takes two men to guard it and another three to maintain it

The more realistic manpower needs of these 13⅓ Army divisions has been estimated to be as much as 200,000 men less than Secretary Laird has requested. Statistics provided by Col. Edward King and corroborated by a recent Institute for Strategic Studies publication describe U.S. forces as having an inordinately large officer corps, a top-heavy hierarchy. In raw numbers, we now have one officer or one noncommissioned officer on active duty for every two enlisted men.

But beneath the questionable management and inefficient use of personnel are more basic problems still. Up to now, Congress has accepted—always on good faith—the definition of threat and commitment presented by the Department of Defense as justification for given force levels. Until this year the Congress has passively ratified force level requests based on long-standing commitments and attitudes some of which are the residue of a world war 25 years past or the vestiges of a brand of containment long outdated.

The former Assistant Secretary of Defense for International Security Affairs, Paul Warnke, tells us these commitments:

> Have acquired an independent life transcending the U.S. security interests that brought them into being. Collectively, our commitments remain what they have tended to become: an undifferentiated mass which defies discriminating analysis for defense planning purposes.

Herein lies the cardinal error, the continuing propensity of America to allow unexamined commitments to dictate defense policy rather than rational consideration of the national interest.

Despite the urgent need to revise the process by which we determine defense policy and the manpower levels necessary to implement that policy, congressional committee action in this session made little headway. House and Senate Armed Services Committee reports on military manpower legislation do not deal in detail with possible threats and contingencies to which American and allied armed forces might have to respond. Yet the only rational basis for decisions on force levels is a sober, reasoned consideration of such possibilities and the kinds of responses they might require. The absence of such data from the committee reports is a direct result of the difficulties encountered in obtaining applicable information from the Defense Department.

President Nixon and Secretary Laird have indicated recognition of this problem. They have done this by stating that they have evolved a new policy of decreasing commitments. The President has even given this policy a name. He calls it the Nixon doctrine. But despite the new name, the old politics persist. The alleged reductions in commitments have not led to commensurate reductions in military spending or manpower. Instead we are presented with an expanded defense budget, a budget clearly out of line when measured against a realistic assessment of genuine military threats and the urgent domestic priorities with which this expense must be balanced.

And even the supposed reduction of commitments is in serious doubt. Since the enunciation of the Nixon doctrine we have apparently taken on a new commitment to the Cambodian Government, a commitment that has thus far cost us $250 million, taking the Defense Department at its word.

It has taken us to the point of financing mercenary forces in northern Laos and the expenditure of over a billion dollars a year for bombing sorties, all conducted without the knowledge or assent of Congress.

Thus the Nixon administration now endeavors to pursue elsewhere in Asia, under a more indirect policy of intervention, the same political and military ends that another administration sought in Vietnam.

Beyond that, as Averell Harriman has noted, the Nixon doctrine has been like an accordion—contracted here at home but expanded when the President or Vice President travel abroad. In its expanded configuration it bears a remarkable likeness to what we had before. This year the amount of arms and military equipment we sold or gave mostly to less developed countries, rose by 25 percent.

But what does it say about us, when we arm reluctant Asian nations to fight a war we no longer want? What American interest is served when one friendly power uses the arms we have given it to subjugate or destroy another?

Moreover, as shipments of arms flow candestinely, backed by American air power, the ominous shadows of other potential Vietnams lurk in the background. Certainly recent revelations by Senator SYMINGTON cannot be disregarded. As Secretary Laird himself said in testimony before the House Armed Services Committee:

> Under the Nixon Doctrine, as exemplified by the Vietnamization Program, we believe that our allies can and must increasingly bear the primary burden . . .
>
> However, as we move in this direction under President Nixon's Strategy for Peace, there may be situations where only U.S. capabilities would provide flexibility of action which may be necessary in the future.

No responsible American questions the need for flexibility of military response. In an area of relative nuclear parity, the flexibility remains important. But I do question the nature of commitments that demand open-ended and unqualified military assistance and commitments that are construed so as to justify covert expenditures far in excess of the authority delegated by Congress. Secretary Laird has repeatedly spoken about our need to maintain a capability to deal with insurgencies in Asia which have neither Chinese nor Soviet support. What kind of contingencies are these? Such commitments and such statements give disturbingly little assurance that the Nixon administration is, in fact, moving to rationalize American defense policies. If the executive branch does not choose to do this, we in Congress must act.

If the true significance of the Nixon doctrine, particularly for Asia, is shroud-

ed in mystery, the number of general purpose forces dedicated to its implementation is more ill defined still, just as is the real amount of our military assistance. While the Defense Department will do no more than give an aggregate total for troops designated for the defense of the continental United States and Asia togther, an educated guess by Brookings analysts place the number of divisions assigned Asian responsibilities at four. Without adequate information from the Pentagon, it is difficult for the Congress to make a realistic and responsible judgment of the kinds of military problems we might face and the conventional forces appropriate to meet them.

The administration says it has adopted what it calls a one and a half war posture. They say that we will now have the capability to fight one major war and one minor war at the same time. The previous approach had been to prepare for "two and a half" wars—simultaneous major conflicts in both Europe and Asia and another, minor contingency.

But assuming that 1½ war posture—why do we now need more manpower for 1½ wars than we used to need for 2½?

The manpower levels recommended by the Defense Department signal a reduction to a baseline total beneath the levels maintained in fiscal 1970. But under the Nixon one and a half war strategy, more active divisions would be made available for European service in fiscal 1972 than at any time in the previous 5 years—under a 2½-war strategy. Today, with increased sealift and airlift capacity—developed at no small public expense through such projects as the C–5A—the United States has the capability of deploring more troops to meet a crisis in Europe—or elsewhere—than at any time since 1964. Counting reserve divisions, the President may draw upon 17⅔ complete divisions now deployed in the continental United States for reinforcement of our NATO commitment. He can do that without taking any troops out of another theater. As one Brookings expert, Charles Shirkey, demonstrated in his House testimony, this represents an increase of four full divisions over the previous highwater mark of our capability—13⅔ divisions in 1970.

I believe it is important that an American commitment to NATO be maintained, though with less than 300,000 men NATO continues to play a vital role as a deterrent. However, as the cost of maintaining NATO forces in Europe rises and the economic capability of our allies increases, it is important that the burden of this defense be more equally shared. Hopefully, our action this session will encourage such a redistribution of the defense burden, although the recent meeting in Lisbon has not yet yielded conclusive results. While we have encouraged greater European efforts in maintaining this alliance, continuing our own, Congress has been given no evidence to show that the number of American forces with NATO responsibilities needs to be increased. We have seen no justification for more divisions, only substantial evidence that the divisions now available are overmanned and do not use the manpower they have efficiently.

Yet the Department of Defense has insisted that a reduction from 13⅓ active divisions available in the United States for use in Europe is not acceptable. They say that the 9⅓ active divisions available in the United States for such use are not adequate now nor were they in 1970 when the same number existed. The Defense Department contends that with such U.S.-based units on call for use in Asia as well as Europe, our capability to respond to conventional threats in Europe was unacceptably weakened. But with the President's avowed policy in Vietnam being one of disengagement, what is the nature of the commitment to which these men are dedicated?

In effect, the military manpower proposals submitted by Secretary Laird request an additional four Active Army divisions to be held in reserve in the United States, capable of either European or Asian forward deployment. The Department of Defense has defended this increment of force, arguing that the certain ability to deploy these additional troops within a decisive period of time would contribute significantly to the maintenance of European security.

But let us look at this reasoning. First, can we really deploy these forces promptly? Do we have the requisite air- and sealift capability? Several experts have testified or written that our capability has not been clearly established. If that is so, what is the basis for keeping 240,000 possibly extraneous troops under arms?

Moreover, if we have in fact adopted a one-and-a-half war posture, why will we need an extra four divisions—an extra 250,000 to 300,000 men—for Asian contingencies? That is as many men as we have in Vietnam now. Would the Nixon administration seriously consider sending these men back to Southeast Asia once they were brought home? I find it hard to believe they have not learned—as the Congress has—the hard lessons of our Vietnam involvement.

If these four divisions are not to be returned to Southeast Asia, for what purpose are they intended? Where is the budgetary saving in bringing them home and keeping them in being here in the United States? What new kinds of Asian contingencies does the Pentagon have in mind for them?

Until the Department of Defense has made clear its intentions for these 16⅓ active general purpose force divisions, I see little basis to extend to it this new authority.

So long as these questions remain unanswered, I wonder whether any of us can make a well-reasoned judgment on whether or not a particular force level is appropriate to our changing national security requirements. Chairman STENNIS and the Armed Services Committee have apparently seen some of these same inadequacies in Department of Defense justifications and have uncovered inefficiencies in the manner in which the military allocates its manpower resources.

Additionally, when the committee measured the personnel levels that my amendment required the Department of Defense to submit against an accelerated rate of troop withdrawal from Vietnam—as the distinguished Senator from Kentucky (Mr. COOK) and I had suggested last year—Chairman STENNIS saw fit to reduce manpower levels by 56,000 men. But as these comparisons of manpower levels with withdrawal rates, the evidence of inefficiency in our Armed Forces and the revision of our defense posture would seem to indicate, this year's investigation has exposed only the tip of the iceberg.

I do not think then, that it is the intention of either the committee or the Congress to lay the issue of military manpower aside, once we have acted on this particular bill. The time has come when we must measure more carefully our military manpower needs, weighing them against both the requirements of our national defense and critical domestic problems crying out for solution.

To make this measurement, to fulfill our responsibility to the American people, we must have available far more information concerning alternative defense postures, the number of men required to implement them, and the way in which they should be organized and deployed. Clearly, my amendment last session to Public Law 91–441 did not evoke the specific data necessary to this task.

In order to elicit this information, I am now proposing a new amendment. Its first section would call on the Department of Defense to state, in justifying the force levels it recommends:

> In detail for all forces, including each land force division, carrier and other major combatant vessel, air wing, and other comparable unit: (A) the unit mission and capability, (B) the strategy which the unit supports, and (C) the area of deployment and illustrative areas of potential deployment, including a description of any United States commitment to defend such areas.

With this additional data, the Congress will be better able to meet its responsibilities in reviewing the Department's request for force level authorization.

More importantly, section (b) of this amendment would authorize and require a survey of the relationship between long range defense posture and force levels. Various proposals for manpower reductions have been made, some of which will eventually take legislative form. It is the Congress' constitutional responsibility to exercise independent judgment on these matters. Yet the limited information now available on the specific deployment and possible applications of our military personnel makes consideration of what forces our national security requires most difficult.

To overcome these difficulties and accurately gauge the cost of maintaining alternative defense postures, as our national security policy changes to meet the needs of a changing international environment, I am proposing that the Department of Defense submit annually a detailed analysis of those changes in the posture and organization of our Armed Forces—as well as the support and overhead costs entailed—that would be necessary if the manpower levels for each service that year would be reduced by 10 percent.

This analysis will enable Congress for the first time to project the cost and level

of American Armed Forces against the defense policy these forces are intended to implement. Such an investigation can only serve, in this time of changing national priorities, to enhance our capability to provide for the national security and, at the same time, address the many problems that challenge America from within.

With this in mind, Mr. President, I have had a prolonged discussion with the chairman of the committee over the past several days, and with the efforts of our combined staffs have arrived at an understanding with him. This agreement merged an amendment that he has introduced with an amendment that I have introduced, and would require a more detailed implementation of the law enacted last year as a result of the amendment that the Senator from Kentucky (Mr. COOK) and I introduced.

Mr. President, at this time I ask unanimous consent that the language contained in this amendment be read in its entirety and I also ask unanimous consent that it be considered pursuant to the rules under which we are operating after a cloture motion.

The PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Since the amendment has not been read under the requirements of rule XXII——

Mr. BAYH. Mr. President, I ask unanimous consent that the amendment may qualify under the rule.

Mr. STENNIS. Mr. President, I am sorry, but will the Senator from Indiana please restate his unanimous-consent request.

Mr. BAYH. I ask unanimous consent that the amendment which I have sent to the desk, pursuant to the discussion that I had with the Senator from Mississippi, be considered as having been read and thus qualify under the rules of cloture.

Mr. STENNIS. I have no objection.

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

The substitute amendment reads as follows:

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. Section 412(d)(2) of Public Law 86–149, as amended, is amended by (1) striking out "the President" and substituting in lieu thereof "the Secretary of Defense", (2) striking out "January 31" and substituting in lieu thereof "March 1", and (3) adding at the end thereof the following: "Such justification and explanation shall specify in detail for all forces, including each land force division, carrier and other major combatant vessel, air wing, and other comparable unit: (A) the unit mission and capability, (B) the strategy which the unit supports, and (C) the area of deployment and illustrative areas of potential deployment, including a description of any United States commitment to defend such areas. Such justification and explanation shall also include a detailed discussion of the manpower required for support and overhead functions within the Armed Services. Such justification and explanation shall also include a detailed statement of the way in which the above missions, capabilities, strategies, and deployments would be affected by a 10-percent reduction in authorized strength for each service below that recommended in the budget for the next fiscal year."

Mr. STENNIS. Is the amendment in its modified form now?

Mr. BAYH. The amendment stands as we discussed it yesterday, and as our staffs worked it out. For brevity's sake, rather than read the detailed explanation, I would like to read directly from the amendment, stating specifically its aims:

Such justification and explanation shall specify in detail for all forces, including each land force division, carrier and other major combatant vessel, air wing, and other comparable unit: (A) the unit mission and capability, (B) the strategy which the unit supports, and (C) the area of deployment and illustrative areas of potential deployment, including a description of any United States commitment to defend such areas. Such justification and explanation shall also include a detailed discussion of the manpower required for support and overhead functions within the Armed Services. Such justification and explanation shall also include a detailed discussion of the manpower required for support and overhead functions within the Armed Services. Such justification and explanation shall also include a detailed statement of the way in which the above missions, capabilities, strategies, and deployments would be affected by a ten-percent reduction in authorized strength for each service below that recommended in the budget for the next fiscal year.

Mr. President, I would like to thank the Senator from Pennsylvania (Mr. SCHWEIKER) for his enthusiastic cosponsorship of this amendment. Together we are trying to fulfill the constitutional obligation of Congress to raise and support our armies. For far too long we have really given the entire responsibility of making this decision to the executive branch. I wish to commend also the Senator from Mississippi for his attention to this obligation over the past 8 weeks. We know that in this particular area of the Defense budget—military manpower—a thorough job has been done. However, in discussing the matter with him and looking at the committee report on military manpower levels, it seems that the Senator from Mississippi and his colleagues have operated largely in the dark, because the Secretary of Defense and the Pentagon have not made all of the pertinent figures available to Congress, as we asked them to do last year. Today we are merely asking that they make this information available as required by law so that Congress might work with the Department of Defense and the President to fulfill our responsibilities regarding the national defense.

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

Mr. BAYH. I yield.

Mr. STENNIS. Mr. President, I am ready to debate the amendment and will not use much time. However, someone is outside the Chamber whom I must see. Will the Senator ask for a brief quorum call on his time?

Mr. BAYH. Yes. I would be glad to do so.

I might point out that there has been a great deal of discussion about our future defense policies as national sentiments against the Vietnam war become more intensified. While future American defense policy and security needs must reflect the lessons of our Vietnam involvement, the manner in which this policy is determined must not be irrational or hasty. As much as I have taken the contrary position to that of the Senator from Mississippi on the timing and character of our Asian policies, I know that we do agree in the recognition of vital American interest in other areas of the world, and that America will still have to maintain a credible and strong defense.

I think, however, that most of us realize that there is a deep need to examine the ways in which we can organize and deploy our military force, and examine our entire military posture as it relates to the overall foreign policy.

Looking at some of the dramatic evidence that was presented to the Senate by the Senator from Missouri (Mr. SYMINGTON), as he disclosed the number of bases, and the American commitments which they are meant to fulfill, we see how our defense posture relates to our foreign policy, and how, indeed, our defensive posture and the way in which we deploy our forces throughout the world are directly related to our foreign policy. If we give careful attention to this matter now, we might avoid the same kind of mistake which once led to the Vietnam entanglement.

Though little is to be gained in second guessing the decisions made long ago, we must heed past error. Thus we clearly need to have this information made available to Congress and to the country to see how the air wings, the carriers, and other types of ships are needed, and to see how they can be operated more efficiently and more in concert with true national interest.

I have been alarmed at some of the reports that have disclosed that our manpower in many areas of the world is not very cost effective. We have an inordinately large number of men involved in support operations in relation to the number of men who actually bear weapons. We have a tremendous number of generals in relation to enlisted men.

I hope that the Secretary of Defense and the Pentagon will come forward and make this information available so that Congress can make an effective defense and at the same time make more resources available to devote to the critical domestic needs which now exist.

QUORUM CALL

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

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

Mr. ERVIN. Mr. President, I would like to ask the distinguished Senator from Mississippi a question on my time.

Mr. STENNIS. I am glad to yield for a question.

Mr. ERVIN. I am impressed with the argument of the distinguished Senator from Indiana in respect to his amendment. I would like to know the attitude of the distinguished Senator from Mississippi with respect to this amendment.

Mr. STENNIS. Mr. President, I will give my reasons later, but very briefly I am for the amendment offered by the Senator from Indiana. The amendment covers a subject matter he has worked on and one that I have also worked on. The Senator from Maine and I asked the staff to draw up an amendment along this line.

The Senator from Indiana had an amendment he had worked on for a long time which went further than the amendment in its present form, but he has now modified his amendment to substantially agree with the amendment prepared for the Senator from Maine and me. I am supporting the amendment and I will give my detailed reasons for doing so within a few minutes. If the Senator wishes me to do so, I can give them now.

Mr. ERVIN. That is what I would like to have.

Mr. STENNIS. I will try to be brief. The matter of manpower is highly important. It is the key to the situation of having the right kind of defense shrinkage—if we get this shooting war over—to reduce the numerical strength of our services and to be able to spend every effort to increase the quality of our services.

I am willing to spend more money on the individual and provide support, housing, and items of that kind, but we have to call a halt to the massive numbers that are requested here year after year.

For the first time this bill places a legislative ceiling on the number of men that could be required in each of the services. Our committee amendment reduced that level. Although it is a modest reduction, it is a start. This amendment places a ceiling on the number of men that can be inducted each fiscal year, and that comes up again. There are two fields where there has been legislative innovation in this manpower problem.

Last year the amendment of the Senator from Indiana required certain reports as to manpower levels and certain other information. I was disappointed that the report which came in was not considered adequate. It was a new matter and the legislative branch of the Pentagon was not accustomed to making these preparations.

We received enough facts to have hearings, and they were hurried, but we made these innovations.

It is much more in order to have an explicit amendment of this kind to require in advance in the next fiscal year for the forthcoming information with reference to manpower.

I want to get this matter to a point where they give us not only their requirements overall but also how many they are going to use in mission X and why they need that many. We have to get it broken down some.

This would be valuable for the Committee on Appropriations. This is a problem that must be tackled by the legislative branch and successfully handled. It cannot be done with a meat ax, and it cannot all be done in 1 year.

Mr. President, that is the explanation of the amendment.

Mr. ERVIN. I thank the Senator. I yield the floor.

Mr. BAYH. Mr. President, I wish to express my appreciation to the distinguished chairman of the Committee on Armed Services for the detailed explanation he just gave in response to the question of the Senator from North Carolina.

As I pointed out earlier, the distinguished chairman of this committee has been debating this bill for about 8 weeks now. He and his committee have done their best to try to scrutinize the manpower features of this legislation and he is in a better position to point out the inadequacies of the present reporting provisions or practices of the Pentagon. To have his support lends great prestige and merit to this proposal, and I appreciate very much his willingness to lend his effort and am glad to have an opportunity to work with him in this matter.

Mr. STENNIS. Mr. President, I yield myself 2 minutes.

In reference to the statement a few minutes ago about the testimony we finally got from the Department of Defense, it was good testimony when it came in, and was well handled by Secretary Kelley, but it was a new method and it was a little late and it did not cover all the matters that we find now are necessary. So once again I thank the Senator from Indiana for his work, and I am wholeheartedly in accord with the amendment and shall support it.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. What is the pleasure of the Senate?

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

The PRESIDING OFFICER. The clerk will please call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 211

Mr. CRANSTON. Mr. President, I call up my amendment No. 211 and ask that it be read.

The PRESIDING OFFICER. The clerk will please state the amendment.

The assistant legislative clerk read the amendment (No. 211) as follows:

At the end of the bill add a new title as follows:

TTTLE VI—STUDY REGARDING THE UTILIZATION OF WOMEN IN THE ARMED FORCES OF THE UNITED STATES

SEC. 501. (a) There is hereby established a commission to be known as the Commission on Women and the Armed Forces (hereinafter referred to as the "Commission"). The men and women of the Commission shall be appointed by the President by and with the advise and consent of the Senate.

(b) It shall be the function of the Commission to conduct a comprehensive study regarding the status of women in the Armed Forces of the United States and the feasibility and desirability of increasing their participation in such Armed Forces. In carrying out such study the Commission shall specifically consider, but shall not be limited to, the following:

(1) The present status of women in the Armed Forces of the United States, the services they perform, the effectiveness with which they perform such services, a comparison of the performance effectiveness between women members and men members in performing the same job, and a comparison between promotions and pay received by men and women members.

(2) The use of women in the armed forces of other countries and the proficiency with which they perform duties which women do not perform in the Armed Forces of the United States.

(3) Duties which women could be effectively utilized to perform in the Armed Forces of the United States, and the extent to which an increase in the use of women in the Armed Forces would free male members to perform other types of duty.

(4) Problems which might be created as a result of an increase in women members of the Armed Forces, and how such problems could be solved.

(5) The desirability and feasibility of providing increased opportunities for women in the Reserve Forces and the National Guard.

(6) The desirability and feasibility of conscripting women into the Armed Forces, especially during periods of national emergency.

(c) The Commission shall submit to the President and to the Congress a report containing the results of its study, together with such recommendations as it deems appropriate, not later than eighteen months after the date of enactment of this title.

(d) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title hold such hearings, take such testimony, and sit and act at such times and places as the Commission, subcommittee, or member deems advisable. Any member authorized by the Commission may administer oaths or affirmation to witnesses appearing before the Commission, or any subcommittee or member thereof.

(e) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this title.

(f) Subject to such rules and regulations as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power—

(1) to appoint and fix the compensation of such staff personnel as he deems necessary, and

(2) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

(g) Any member of the Commission who is appointed from the executive or legisla-

tive branch of the Government shall serve without compensation in addition to that received in his regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of duties vested in the Commission.

Members of the Commission, other than those referred to in subsection (a), shall receive compensation at the rate of $100 per day for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(i) There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out this title.

(j) The Commission shall cease to exist sixty days after the submission of its report.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, there is currently little information concerning the status of women in the military.

As with most other professional careers, however, it appears that women do not occupy the higher levels of the military hierarchy. Most of the women in the military appear to be clerks and nurses. With all the women who do serve—in 1970 there were 29,454 women in the military—only two women have the rank of general.

We must reexamine the role of the woman in the Armed Forces with an eye toward bettering her position and eliminating the discrimination which confronts her.

We must, for example, determine statistically exactly what roles women currently occupy and how these roles compare with men. Additional comparisons should be made concerning the effectiveness with which women perform the duties currently assigned to them. Promotion and pay policies should also be studied carefully.

That is particularly appropriate now that we have a proposal in both the House version and the Senate version of the bill for significant pay increases.

There are evidences of discrimination against women concerning the question of promotions. A U.S. Navy nurse who had been commended by President Nixon for her intense dedication, who had received the Navy Achievement Award, and who was credited with saving 110,000 man-hours of labor and $586,000 in tax dollars during an 18-month period was passed over for promotion twice and must, by law, be separated from the service.

This example is certainly cause for concern, and I expect there are similiar examples one can find concerning the discrimination women confront.

In most sectors of our society we have been reluctant to deal with the basic question of true equality of opportunity for women as well as the question of equal pay for equal work. From some of the evidence that exists it appears that such is true in the military as well. The study will hopefully document or refute this assumption.

In addition, the study should also look into the roles that women assume in the military in other countries. Women, for example, occupy a far different role in Israel than they do here in the Armed Forces.

I must make it clear, however, that I am not advocating the drafting of women. I am not advocating the drafting of men, either, for that matter.

As Senators know, I am opposed to the concept of conscription for men or women since I consider that concept to be antithetical to our democratic system.

Concerning the conscription of women, furthermore, it would be well to keep in mind the words of Dr. Martha Horner of Harvard University. Dr. Horner, when commenting upon the possibility of inducting women stated that—

Whatever needs to be done, women can do, and it is wrong to hold them back. Still, in my mind, it is as silly for a woman to put on a uniform and fight as it is a man.

The overall goal of the study will be to provide the most effective manpower—and womanpower—for this country while we continue to move toward the eventual goal of an all-volunteer military.

In testimony before the House Armed Services Committee on this subject it was stated that women could probably be utilized effectively in such areas as administration, medicine, and logistics among others. Let us study such possibilities and recommend ways of implementing them if they are feasible.

One of the major arguments in favor of a volunteer army is that we must provide increased incentives and inducements so that the military will attract trained and talented women and men to its services. We must therefore recommend ways of achieving this goal and improving the status of women for this reason as well as in the interests of equity and women's rights.

Mr. President, if this study leads to more effective use of womanpower in the armed services, plainly there will be, then more women volunteering if there are greater opportunities for promotion and for better pay, and that will reduce the reliance upon the draft to conscript men when there are alleged manpower needs. That makes this matter very relevant to the bill we are considering.

Mr. STENNIS. Mr. President, on my own time, I first wish to express my appreciation to the Senator from California for his work on this amendment. I do not discount some of the points he makes.

However, we are operating now under rule XXII of the Senate, and as far as this amendment, relating to womanpower or to women, is concerned, the bill itself does not include women in any way, Mr. President.

I refer to section 2 of rule XXII, particularly that sentence which reads:

No dilatory motion, or dilatory amendment, not germane shall be in order.

I make the point of order, Mr. President, that under rule XXII, and especially its strict interpretation, this amendment is really not germane to the bill.

The PRESIDING OFFICER (Mr. ALLEN). The point made by the Senator from Mississippi is well taken. The amendment is not in order. The Chair will state to the Senator from California that had the amendment been called up prior to the application of cloture, it would have been in order, but, operating as we now are under rule XXII, cloture having been applied, all amendments must be germane. That rule did not apply prior to the application of cloture.

The amendment is not in order.

Mr. CRANSTON. Mr. President, I appeal the ruling of the Chair.

The PRESIDING OFFICER. Very well.

Mr. CRANSTON. Mr. President, is a brief statement of my reasons for appealing in order?

The PRESIDING OFFICER. Does the Senator wish to use his time for the appeal from the ruling of the Chair?

Mr. CRANSTON. Very briefly, yes.

The PRESIDING OFFICER. Very well.

Mr. CRANSTON. I call the attention of the Chair to page 34, line 19 of the bill, which states:

Unless prohibited by treaty, no person shall be discriminated against by the Department of Defense or by any officer or employee thereof—

et cetera.

The purpose of my amendment is to explore the matter of discrimination against women in the Armed Forces, to ascertain whether or not that is occurring, and there is considerable evidence that it is—I have already cited some—and then to deal with that problem in its exact state, as we discover that state.

I call the attention of the Chair also to page 30, line 21, where there is a reference to the matter of sex in connection with the Armed Forces, which makes it plain that this does relate to a matter that is contained in the bill.

The PRESIDING OFFICER. The Chair will state to the Members of the Senate the ruling that has been made.

The Senator from California has called up at this time amendment No. 211, having to do with a study regarding to the utilization of women in the Armed Forces of the United States. The Senator from Mississippi has made the point of order that this amendment is not in order because it is not germane to the provisions of the bill, inasmuch as the bill makes no reference to the use of women in the Armed Forces.

The Senator from Mississippi called attention to that fact, and quoted from rule 22.2, and the Chair used that rule as the basis of his ruling that after the application of cloture, all amendments must be germane under rule 22.

The Chair, therefore, has ruled that the amendment is not in order, and the Senator from California has appealed the ruling of the Chair.

The question, then, is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. CRANSTON. Mr. President, the Senator from California requests the Chair, he having summarized the argument of the Senator from Mississippi, to restate also my comment citing applicable provisions of the bill.

The PRESIDING OFFICER. What is the Senator's request?

Mr. CRANSTON. I simply request the Chair, if I may, to comment on the pro-

visions in the bill, which, as I have pointed out, relate to the very matter that the Chair stated is not in the bill.

The PRESIDING OFFICER. The Chair has stated the point of order involved. The Senator from California made his argument, and the question, then, is, Shall the decision of the Chair stand as the judgment of the Senate (putting the question)?

It appears to the Chair that the "yeas" have it. The "yeas" do have it, and the ruling of the Chair shall stand as the ruling of the Senate.

Mr. CRANSTON. 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.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time consumed with respect to the unanimous-consent request I am about to propose not be charged to any Senator, under the provisions of rule XXII.

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

CONTINUING APPROPRIATIONS—UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I am authorized by the distinguished majority leader—after consultations with the distinguished assistant Republican leader, the distinguished chairman of the Appropriations Committee, and the distinguished ranking minority member of that committee—to propound the following unanimous-consent request:

That debate on the resolution continuing appropriations beyond the end of the fiscal year be limited to 4 hours, the time to be equally divided between the chairman of the Appropriations Committee, the Senator from Louisiana (Mr. ELLENDER), and the ranking minority member of that committee, the Senator from North Dakota (Mr. YOUNG); provided further, that time on each amendment thereto be limited to 1 hour, the time to be equally divided between the mover of the amendment and the manager of the resolution, Mr. ELLENDER; provided further, that time on any amendment to an amendment be limited to 30 minutes, equally divided between and controlled by the mover of the amendment in the second degree and the manager of the resolution, Mr. ELLENDER; ordered further, that the continuing resolution be considered on Tuesday next, and that rule XXII be waived.

The PRESIDING OFFICER. Would the Senator request also the time for the start of the limitation of time? The Chair does not believe that was included in the request.

Mr. BYRD of West Virginia. I thank the Chair, but it is not the intention at this time to schedule a particular hour on Tuesday.

The PRESIDING OFFICER. Would it be, then, on the laying before the Senate of the resolution as the pending business?

Mr. BYRD of West Virginia. Yes. Time would begin to run upon the laying before the Senate of the resolution by the Chair.

The PRESIDING OFFICER (Mr. ALLEN). Will the time for amendments to amendments come out of the 4 hours or would that be in addition?

Mr. BYRD of West Virginia. Again I thank the Chair. It was the intent of the Senator from West Virginia to ask that time on amendments come out of the time allotted on the continuing resolution. Moreover, that Senators in control of the time on the continuing resolution may allot time therefrom to any Senator on any amendment, motion, or appeal, with the exception of a motion to lay on the table. I so request.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. I thank the Chair and I thank the assistant Republican leader.

The unanimous-consent agreement reads as follows:

Ordered, That during the consideration of the continuing resolution on appropriations for 1972 (H.J. Res. 742), on Tuesday, June 29, 1971, time for debate thereon shall be limited to 4 hours to be equally divided and controlled by the Senator from Louisiana (Mr. Ellender) and the Senator from North Dakota (Mr. Young). Provided, however, that any amendment to the joint resolution shall be limited to 1 hour to be equally divided and controlled by the mover of the amendment and the manager of the resolution (Mr. Ellender) and time for debate on amendments to amendments be limited to 30 minutes to be equally divided and controlled by the mover of the amendment in the second degree and the manager of the joint resolution. But, time for debate on all amendments shall come out of the 4 hours.

Provided further, That the Senators in control of the time on the joint resolution may allot time therefrom to any Senator or any amendment, motion, or appeal with the exception of a motion to lay on the table.

SENATE TREATMENT OF DOCUMENTS TO BE RECEIVED FROM THE PRESIDENT

Mr. MANSFIELD. Mr. President, with respect to the volumes to be sent to the Senate by the President of the United States directed to the distinguished President pro tempore, the senior Senator from Louisiana (Mr. ELLENDER), to be turned over to the joint leadership at the appropriate time, I ask unanimous consent that when that message, in whatever form it may be, is received, it be held at the desk, and that pending the final disposition of the Senate and under the joint jurisdiction of the joint leadership and the President pro tempore of the Senate, the senior Senator from Louisiana, the documents be stored in a place considered appropriate by the aforementioned officers of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, reserving the right to object, as chairman of one of the committees that is involved with respect to the subject matter of these papers, the Senator from Montana conferred with the Senator from Maine and me about this matter yesterday and we have had conversations this morning, and I have conferred again with the Senator from Maine. Even though we have not had a chance to talk to the full committee I understand that these papers that are coming to the President pro tempore are classified in the present state and will be available to be seen only by the membership. As chairman of that committee I would welcome the chance for the joint leadership to be responsible for them and to take over custodianship for the Senate.

As I understand, the membership would have access to them if they wish.

Mr. MANSFIELD. That is correct, on a confidential basis, wherever they may be, without the taking of notes, and without taking any of the documents out of the place in which they happen to be in custody.

Mr. STENNIS. Yes. That applies to the membership of the Committee on Armed Services. I think it is better to have them in a central location and that someone else be responsible for the care and custody.

Mr. MANSFIELD. That would be pending final disposition of the Senate; and all Senators will be treated on the same basis—all Senators.

Mr. STENNIS. I thank the leadership for being willing to assume this responsibility.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE MILITARY SELECTIVE SERVICE ACT

The Senate continued with the consideration of the bill (H.R. 6531) to amend the Military Selective Service Act of 1967; to increase military pay; to authorize military active duty strengths for fiscal year 1972; and for other purposes.

AMENDMENT NO. 224

Mr. CRANSTON. Mr. President, on behalf of myself and my good friend, the distinguished Senator from Pennsylvania (Mr. SCHWEIKER), I call up amendment No. 224 and ask that it be stated.

The PRESIDING OFFICER (Mr. CHILES). The amendment will be stated.

The legislative clerk read as follows:

H.R. 6531

On page 27, between lines 21 and 22, insert the following:

"(21) The first sentence of section 6(j) is amended by inserting 'induction or to' immediately after 'subject to'."

Renumber the succeeding paragraphs of section 1(a) of the bill accordingly.

Mr. SCHWEIKER. Mr. President, as principal cosponsor of this amendment, along with the distinguished Senator from California (Mr. CRANSTON), I am very much concerned about the implications of the recent Supreme Court decision that affects this area.

In fact, as many as 6,000 men may be facing imprisonment because of a recent Supreme Court misinterpretation of Congressional intent. On April 12, 1971, the Supreme Court decided by a 6 to 3 vote

the case of Ehlert against United States. The Court held that conscientious objectors may be denied consideration of their claims to exemption from military services unless they filed their claims before they are ordered to report for induction into the Armed Forces. According to the Court, men who do not realize that they are conscientious objectors until they receive induction orders must accept induction and should then apply to the Armed Forces for discharges as conscientious objectors. The Selective Service System is carrying out this new policy: National Headquarters has informed all local boards that—

> Claims for (conscientious objector status) received by the local board after mailing of the Order to Report for Induction . . . may not be considered.

The Congress has provided, in section 6(j) of the Military Selective Service Act, for two types of exemptions for conscientious objectors to war. The I–A–O classification exempts a man from combatant military training and service, but requires him to serve 2 years in the military without weapons—usually in the Army Medical Corps. The I–O classification exempts a man from all military service, but requires him to perform 2 years of approved civilian service—usually in a hospital—as an alternative to induction. About 4,000 I–A–O conscientious objectors are now serving in the Army Medical Corps, and about 10,000 I–O conscientious objectors are now performing civilian service.

Each month, about 10,000 men apply for conscientious objector status. Several hundred of these men file their claims after they are ordered to report for induction. Obviously, a man is better off if he can apply earlier, since draft boards now cannot consider post-induction-order CO claims.

But few young men know what the draft law says about conscientious objection. Many draft-age men, especially those without college educations, wrongly believe that conscientious objection is never legal, or that only Quakers can qualify, or that the proper way to apply for CO status is to present the claim to the Army at the induction center. Many men—especially poorly educated CO's and those from minority groups—wait and file so-called "late" claims, which the Supreme Court has now decided need not be considered by Selective Service.

The Supreme Court based its ruling on a singular interpretation of the Selective Service Act. The majority held that—

> the only unconditional right conferred by statute upon conscientious objectors is (I–A–O) exemption from *combatant* training and service.

They decided that Congress did not confer an equal right to I–O exemption from noncombatant service in the Armed Forces, because:

> The right to civilian service "in lieu of . . . induction" arises only if a registrant's "claim is sustained by the local board."

According to this interpretation of the law, a CO may be required to accept induction and submit his claim to military noncombatant military duty while the authorities since he is to be placed in claim is pending. Since many men profess beliefs which preclude any participation in the Armed Forces, this requirement makes men violate their beliefs in order to get a ruling on their sincerity. That was not the intent of Congress.

I am deeply disturbed by the second-class status which the Supreme Court has accorded to I–O conscientious objectors. The Congress must clarify and preserve what has always been its intent—equality of I–A–O and I–O rights. A simple change in the language of the first sentence of section of 6(j) of the act will suffice. The pending amendment adds the words "to induction or" in the first sentence so that it reads:

> Nothing contained in this title shall be construed to require any person to be subject *to induction or* to combatant training and service in the Armed Forces of the United States who, by reason of religious training, and belief, is conscientiously opposed to participation in war in any form.

The Supreme Court opinion, unfortunately, overlooked and consequently distorted the long-standing intent of Congress that I–O conscientious objectors must be treated as civilians and are not to be subjected to military jurisdiction. The history of this policy of civilian treatment is impressive.

Congress has long respected the right of conscientious objection to all military service. The present language of the draft act, providing for exemption of conscientious objectors from even noncombatant duty in the Armed Forces, was proposed by the Quakers in 1940 precisely to prohibit their induction under military authority as had been tried in World War I. In that war, all CO's had been inducted—a man was considered inducted automatically when the order was issued—and many were court-martialed and imprisoned for refusing to perform noncombatant military duties. Provisions for civilian conscientious objection under the law in the Second World War worked far better than the earlier system of inducting all CO's.

As the legislative history reveals, the decision to guarantee civilian treatment of I–O conscientious objectors was reaffirmed in 1948 when Congress specifically rejected a proposal that such objectors be inducted as noncombatants should they not cooperate in civilian duties. Furthermore, in 1967, the House Armed Services Committee—of which I was then a member when I served in the other body—proposed an amendment to the CO provision of the draft act which would have required the induction of all conscientious objectors into the Armed Forces and their subsequent furlough into civilian work—the very thing that the Supreme Court by its ruling is now saying—if they were opposed to noncombatant training and service. This proposal was rejected on the floor of the House when I pointed out that Quakers, Mennonites, Brethren, and others sincerely opposed to noncombatant as well as combatant service in the Armed Forces would be forced to refuse such induction under military authority. Thus the present language of section 6(j) was an amendment offered by Congressman L. Mendel Rivers, as a result of my consultation with him, in order to insure the continued exemption of conscientious objectors from induction if they were opposed to noncombatant military service.

In essence, the Court ruling reverses this clear intent of Congress. In essence it forces historic peace churches such as Mennonites, Amish, and Brethren to go to jail rather than to submit to the late procedure that will now be brought by the draft boards because the Supreme Court misinterpreted our very clear intent.

The Ehlert decision not only neglected congressional intent, but decreed a new administrative procedure by which the military takes over the classification function of the Selective Service System. Although the Supreme Court may not have been informed of this fact, the historical administrative practice of the Selective Service System—undoubtedly following legislative intent—had been to permit a post-induction-order CO at least a hearing on his claim by the members of his civilian local board. Now, for the first time, he is precluded from any consideration by Selective Service.

Organizations with long histories of providing counseling for conscientious objectors, can predict certain results of the Ehlert decision if Congress does not act.

Noncooperation among sincere conscientious objectors, many from "peace churches," will surely spread if the injustices of the draft stand—especially when relatively well-educated, more privileged, traditional CO's see less educated, often confused, "late" CO's denied any consideration.

If many post-induction-order CO's use the Supreme Court's procedure, Ehlert will shift much of the burden of deciding CO claims to the Army, since according to the Supreme Court, "the late crystallizer—must have—a full opportunity to obtain a determination on the merits of his claim." In the military, men with CO discharge applications pending must be trained separately, given special duties not involving weapons, provided hearings and interviews. During this process, lasting weeks or months, the Army will hardly benefit from these men, many of whom will be discharged before their training is over. And if past experience is a guide, those denied discharge will eventually refuse orders and face courts martial and stockades—so from these also the Army will gain little for its trouble and expense.

Likewise, the Justice Department and the courts will be burdened by large numbers of petitions of writs of habeas corpus filed by CO's in the military.

The "late" CO's themselves will be most burdened. Many must face three choices: Refusal of induction with a high chance of imprisonment, permanent emigration, or acceptance of induction. I might say that the Amish men, the Mennonites, and the Quakers have no choice, if they are put into this position, other than to violate the basic tenet of

their faith. Though most late applicants for I–A–O status will accept induction and pursue their claims in the Army, many late applicants for I–O status believe accepting induction—even solely to file a discharge application—would be a violation of their conscientious convictions. If induction is unacceptable to these men, they must face either prison or expatriation. We estimate that some 6,000 men with pending claims are now in this position, and a few hundred more join the group each month. This is a small number compared to the size of the military or of draft calls.

If Congress accepts the proposed amendment, these "late" CO's would again be allowed hearings and appeals through their draft boards. Those judged sincere could perform the required civilian service, while those judged insincere, after completing Selective Service procedures—which usually only take a few months, but which could even be designed by Selective Service to take only a few weeks—would again face the choice of accepting or refusing induction. However, those who then accepted induction could not trouble the military by seeking discharge as CO's, since they would already have received the required consideration of their claims. Approval of the amendment would relieve the Defense Department of a heavy burden, imposing a modest burden on the Nation's 4,100 draft boards, one which they can easily handle using normal procedures. Even if there is some increase in such claims, the expectation of lowered draft calls should make the task bearable. I urge my colleagues to adopt this amendment.

Mr. STENNIS. Mr. President, I yield myself 5 minutes or so much thereof as I may use.

Mr. President, if I may have the attention of the Senate, quite briefly the committee went into the whole question of conscientious objectors very fully. We reviewed the present law, and we reviewed the present Supreme Court decisions and the various motions before the committee and amendments and so forth. Only after the utmost consideration did we decide that we would leave the law as it was. We would not try to change the Supreme Court decision. We would not try to interpret it in an amendment, but would just leave the established legislative part and the established judicial part alone. This is only a 2-year bill anyway. One of the recent court decisions was on April 27, I believe, and this amendment was not before the committee. However, no one caught this. This decision had not been rendered. So, if we go into this amendment on a bill that will last only 2 years, according to its terms, there is hardly time to get a reinterpretation or an interpretation of new legislative language.

The effect of this language, though, could be to reverse the recent Supreme Court decision of Elliott against the United States. That is the one that I just referred to. That decision held that claims for conscientious objector which were stated only after an induction order was received—and I repeat that for emphasis with all deference—that claims of conscientious objectors which were stated only after an induction order was received need not be heard by the Selective Service Board. Those claims may be heard within the armed services.

That is the Court holding, not mine. But I do think that under the facts that opinion is sound and should not be reversed and should not be disturbed here by this amendment.

There is some dictum in that opinion to the effect that some conscientious objectors who proceed to go into the armed services as medical personnel have a higher status than other conscientious objectors who work in civilian hospitals and similar institutions.

I believe that once a man is found to be a conscientious objector, there are proper procedures. That is the end of the matter.

The statute in section 6(j) states that a conscientious objector who is opposed to noncombatant service "shall be ordered to perform civilian work."

This is not a weaker right than the right given to those who proceed to serve in the Armed Forces as medics, for instance. But this Congress cannot really stop to reverse every dictum—not the decision, but the dictum—that the judge who wrote the opinion might put in it in passing. It is no sin to have some dictum in there. I am not attacking that. But it is not law. It is not controlling. It is not binding. I refer to the point the dictum covers. We cannot go around and reverse all the dicta.

Mr. President, this law will receive only 2 years of life. I do not speak of conscientious objectors in any disparaging way, if they are honest; I am in sympathy with them. But we cannot reverse all of this dictum and especially we should not allow some men to discover after they receive their induction notice that they are conscientious objectors. I say that with all deference.

Mr. President, I hope the amendment is rejected.

Mr. ERVIN. Mr. President, will the Senator yield for a question on my time?

Mr. STENNIS. I yield.

Mr. ERVIN. Mr. President, I wish to ask the Senator if it would not be impossible to operate the Government of the United States or the government of any State or the government of any political subdivision in a State without having certain specified time limits for certain claims.

Mr. STENNIS. The Senator is correct. This is a very fair method and it is extremely liberal.

Mr. ERVIN. Does the Senator from Mississippi agree with the Senator from North Carolina that it would not be an exaggeration to say we have literally thousands of time limits for the assertions of claims?

Mr. STENNIS. Yes.

Mr. ERVIN. In other words, we have statutes of limitations within which a suit can be brought.

Mr. STENNIS. Yes.

Mr. ERVIN. We have provisions of law fixing the time for filing complaints, answering complaints, the time for the trial of cases; and it would be impossible for society to function without having time limitations within which claims must be filed.

Mr. STENNIS. The Senator is correct. Life is filled with limitations on time.

Mr. ERVIN. Does the Senator agree that during all this agitation we had about conscientious objectors and the draft, it is highly improbable that a single human being who exists anywhere in the United States is so deprived of intelligence that he does not know of the right of the conscientious objector to file his claim, or does not have the means to determine when that claim should be filed?

Mr. STENNIS. I agree with the Senator. It is so much a part of our life now that it is on the minds of parents, sisters, and brothers of the person in question. It can hardly happen.

Mr. ERVIN. Would not this amendment open the door to permit a man who had claimed an exemption on other grounds, after his claims are denied, to discover for the first time, perhaps, that he has a conscientious objection to serving in the military forces? It would open that door, would it not?

Mr. STENNIS. The Senator is correct. The rule we are adopting here would apply to the just and the unjust.

Mr. ERVIN. I thank the Senator.

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

Mr. STENNIS. I am happy to yield to the Senator on his time.

Mr. GOLDWATER. Mr. President, this year the Committee on Armed Services held very extensive hearings on the question of the draft. There were over 75 individuals representing over 50 organizations who testified, and that testimony filled a rather thick volume of 750 pages.

I was impressed during the course of these hearings with the fact that the biggest complaint against the draft law was in the field of the conscientious objector. I am sure the chairman of the committee will remember that we discussed this subject at great length. We tried to devise language that would be satisfactory in defining what a conscientious objection is and in laying some ground rules.

We even invited a number of highly competent witnesses—I remember one Lutheran minister who I thought was most knowledgeable in that field—to submit language, but to my knowledge we were never able to get language that would satisfactorily solve this very vexing problem.

My personal feeling in this matter, with all respect to my friend, the distinguished Senator from Pennsylvania, is that there is no way we can legislate the problem of the conscientious objector. I feel this for personal reasons. On a number of occasions I have had to present testimony to draft boards concerning young men whom I knew, and knew to be conscientiously objecting to war, whose families before them had done so, and I was rather amazed to find that the weakness in this whole subject of the conscientious objector is to be found in the draft board itself.

I found men who really did not know what conscientious meant. I found men conscientiously opposed to conscientious objectors.

I think the way to attack this problem and to solve it satisfactorily so that the young man who honestly opposes war—and I think his feelings have to be respected; and there are people in this country who oppose war on religious and moral grounds—is through more careful use of draft boards. I do not like to lay down rules for draft boards, but certainly they should be men who understand there are people in this country who conscientiously oppose war for religious or moral reasons, and that these people should be granted deferments; and they should be able to detect a person who is a phony.

I think the failure of the committee to reach any language in this bill on this matter which, by far, received the greatest amount of testimony indicates this amendment would not solve the problem and probably would get us into more trouble.

Mr. STENNIS. I thank the Senator for his comments.

Mr. GOLDWATER. Mr. President, I yield the floor.

Mr. SCHWEIKER. Mr. President, I would like to focus on the issue. I do not think the Senator from Arizona really has clearly understood exactly what the issue here is. The issue here is not to broaden the CO definition in any way. My amendment does not say we will have x amount or more CO's allowed to be CO's under our system. It does not, in essence, change the earlier Supreme Court interpretation of just what a CO is. So there is no broadening of CO's. There is no opening of the door as to who is qualified to be a CO and who is not qualified to be a CO.

The issue here is simply this: The latest Supreme Court decision which, as the distinguished chairman of the committee pointed out, was not available when we discussed this in committee or we would have brought it up in committee, reverses what Congress has been saying, in effect, since World War II.

The Supreme Court ruled in April of this year by dictum, but the effect is the same because selective service follows this policy. By dictum the Supreme Court has reversed the intent of Congress of when a CO is a CO, ever since World War II.

In World War II we sent a lot of Mennonites and Amish to jail, and now we are going to do it again. We made a mistake in World War I and we are about to jump into that pool again and bring in members of church groups who are obviously conscientious objectors. They were degraded and sent to jail in World War I. We are turning the clock back to 1917. We are totally reversing the intent of Congress.

I would like to repeat what the intent of Congress was in 1948. We made it very clear we would not do this kind of thing; that they would be given a judgment before they were inducted. That was the intent of the law in 1948 and that is what was practiced in World War II.

Then, through inadvertence, the issue came up in 1967 when I was a member of the Committee on Armed Forces in the other body. At that time I pointed out the same situation. Chairman Mendel Rivers agreed and offered an amendment on the floor that would do exactly what my amendment would do now, which the Supreme Court has undone.

All we are saying is that a man has a right to be judged as a conscientious objector before he gets into the service instead of after he gets into the service.

That is the issue: Shall he be adjudged before or after? It makes a tremendous difference to a Pennsylvania Dutchman who belongs to the Amish, Mennonite, or Brethren sect who believes that he cannot be inducted under any circumstances and therefore his only recourse to conscience is that he has to go to jail, because as soon as he steps forward, as they do in the induction procedure, and raises his hand to take an oath, he is violating his religion. That is the issue.

Do we make the Mennonite or Amish or Brethren choose between his religion and his country? Why put him through that? Why do that? We are talking about a handful of men. We are talking about a few thousand. We learned the hard way in World War I, when some of our good Pennsylvania Dutch citizens went to jail. Why do this for the sake of a few thousand men? That is the course we are embarked upon because the Supreme Court has reversed the will of the Congress by its dictum, so it has the effect of law.

We are turning the clock back to 1917. The issue is not, Do we open up the CO status to thousands and hundreds of others who will take advantage of it? That is not the issue at all. All we are saying is, Does the CO have a right to be adjudged a CO before or after he is inducted?

It makes a tremendous difference to a Pennsylvania Dutchman or to any person who is a member of the Amish, Mennonite, or Brethern faith when that decision is made. It makes the difference between living with his faith and going to jail. In essence, if we do not correct that inequity, we are going back to World War I status and making such an individual go to jail until his case is heard.

Why in the world go through that when we learned in World War I that that was what we were doing, when in 1948 Congress reversed that course, and again, in 1967 through an amendment introduced by the late L. Mendel Rivers, and which has been the practice up to April 1 of this year,

If I had had an opportunity to appear before the committee, I would gladly have offered this proposal, and I think, frankly, under the circumstances, the committee would have favorably considered it. So let us not exclude it now because it is a little late. We have no control over when the Supreme Court decides an issue, but it has clearly reversed the intent of Congress.

I hope we will remember the issue is not broadening the CO objection; it simply is saying when a CO has the right to determined whether he is a CO. We would be making people who came to this country for religious reasons criminals when we say they have to be inducted. That is the issue. I hope Senators will keep it in mind.

I yield the floor.

Mr. CRANSTON. Mr. President, usually I can understand the basis of opposition to various proposals that are made in this Chamber. Frankly, I simply cannot understand the opposition to this amendment, given the history, the efforts in the House over many years to establish the principle that this amendment would reestablish, the position taken in writing the draft way back in 1940, which is totally consistent with what we are proposing here. It is totally consistent with the amendment offered by L. Mendel Rivers in the House more recently.

It is completely consistent with the position that this amendment would place back into the law after the incredible ruling of the Supreme Court. It is totally consistent with the concept that there is no belief in this Chamber or in the country that those whose religious principles persuade them that they should not engage in the Armed Forces in any way, shape, or manner should not be exempt from service in the Armed Forces.

There are differences in this Chamber and in the other Chamber and in the country over the right of individuals to claim conscientious objector status for reasons that are not based upon religious beliefs, concepts, and principles; but to insist that a young man whose religious training tells him that he should not serve in the Armed Forces, must first accept induction in the Armed Forces before he can find out whether he is entitled to a conscientious objector status, is totally contrary to all the principles upon which this country has been founded and which have guided this country until only quite recently.

It is not a few people we are talking about. As many as 6,000 young men, including somewhere between 1,500 and 2,000 who reside in my State of California, may very well be facing imprisonment right now because of a recent Supreme Court decision, the decision described by my good friend from Pennsylvania, holding that conscientious objectors may be denied consideration of their claims for exemption from military service unless they file their claims before they are ordered to report for induction into the Armed Forces.

Each month about 10,000 men apply for CO status. Several hundred of them file their claims after they are ordered to report for induction. They do so very often because they misunderstand the regulations applicable to a CO status. Many of them believe they cannot claim a CO status until they report for induction. They believe they can go down to the local draft board and say when they go there, "I, for religious principles or for other reasons, believe that I am entitled to a conscientious objector status."

To ask those men to report for induction, to be inducted, and thus to participate in a system which is anathema to

many of them, based upon religious principles, and then to have to go before a military board, is totally unfair and totally unjust.

I believe we should afford these young men the same rights that are provided to those who claim conscientious objector status prior to induction, those who recognize exactly how the present law works and who are aware of it and take that step before the time when they are called.

There are many who simply have not thought it through, who are misinformed, or who do not understand they can only do it before they are called.

I do not believe we should penalize them to the extent of placing them in prisons, in so many cases, and prejudging and prejudicing their claims simply because they applied after receiving their notice.

I would like to describe one case that has just come to my attention that dramatizes in a heartbreaking way how the present system works and the way it will continue to work unless we are successful with this amendment.

I am informed of a case of a young man who claimed conscientious objector status after receiving notice to report for induction. His local board had refused to consider his claim. He refused induction, and so he could not appeal to the military board.

The Supreme Court refused to hear his case. This young man is currently serving an unusually stiff sentence of 3 years in a Federal penitentiary. That, to me, is shocking and outrageous.

The congressional background of action in the House on this matter, of action in the entire Congress on this matter, the understanding of Congress when it wrote the present law, the leadership which the late Mendel Rivers provided in the direction this amendment would carry us once again, his willingness to take the time to consider this matter, I believe point up a crucial concept which our amendment would clarify. In the interest of justice, the Senate should agree to this amendment.

Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STENNIS. I ask for the yeas and nays.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SCHWEIKER. Mr. President, I ask unanimous consent to yield 5 minutes of my time to the Senator from Mississippi.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. STENNIS. Mr. President, this is a very complicated matter. There is no "yes" or "no" answer perhaps anywhere to this problem. Certainly, it is a very difficult matter to work out on the floor of the Senate and then have Senators come in, not fully advised of what the situation is, and vote.

So, after conference with other Senators, I am willing that we take this amendment to conference to see what can be worked out to take care of an honest case such as the Senators from Pennsylvania and California have described, but, at the same time, not just open the doors and let everyone go through the gap.

If we can work out something on that basis, I would support it in conference to that end and to that extent—and gladly. But I would not want to be mandated or hidebound to push for this and nothing else with nothing left. And so, in that spirit and with that understanding, I am willing that we pass this by a voice vote and try to follow it in conference along those lines.

Mr. CRANSTON. I thank the distinguished chairman of the committee for his approach to the delicate problem. It is most gracious of him. I am grateful to him for his willingness to consider what can be done to ensure that justice is provided for our young men, that concerns Senators, including myself, in a way that will not, as the Senator from Mississippi says, open the doors. We do not intend to open the doors.

With the understanding that that will be his position in conference on this matter, I ask unanimous consent that the request for the yeas and nays on this amendment be withdrawn.

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

Mr. SCHWEIKER. Mr. President, I want to thank the distinguished chairman of the committee for his fair-minded approach. This is a fair way to proceed. Equity will be served by considering this matter in conference.

Mr. STENNIS. I thank each Senator for his comments.

The PRESIDING OFFICER (Mr. BENTSEN). The question is on agreeing to the amendment No. 224 of the Senator from California (Mr. CRANSTON).

The amendment was agreed to.

AMENDMENT NO. 99

Mr. CRANSTON. Mr. President, I call up my amendment 99 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment as follows:

On page 33, between lines 13 and 14, insert the following:

(33) Section 17(c) is further amended by striking out ", except persons now or hereafter deferred under section 6 of this title after the basis for such deferment ceases to exist".

Mr. CRANSTON. Mr. President, countless Americans of draft age, and a few Senators and Representatives, have assumed that when the draft law expires, the power to draft young men will end.

Frankly, when this debate began, I labored under that impression. Then I found out otherwise, that that is not the case.

If, as the pending measure provides, the draft law is extended until June 30, 1973, but is not renewed at that time, the President will still have authority to draft millions of Americans for many, many years.

The President, under present law, no matter who the President is at that time, would have broad powers to terminate deferments held then by millions of young Americans. He would have the power to proceed to induct them. He would be able, also, merely to wait until their deferments expired—student deferments, for example, 400,000 of which expire every June when they graduate from college.

I believe that the decision: to draft or not to draft, should rest with Congress.

I believe that there are many Members of Congress who share that feeling, that this is not something, which has been abdicated for so long a period of time, in which the fate of so many millions of young Americans is left to the Chief Executive.

If, 2 years from now we are—God forbid—still fighting in Vietnam, and we can extend this right to draft, if that is the will of Congress, the pending amendment, however, which I have just called up, would end the blank check authority that presently is in the hands of the President.

This amendment relates to men who hold deferments for all sorts of reasons—educational, dependency, and otherwise—who can be classified and inducted at any time their deferments run out, or at any time the President chooses to exercise the authority that would be in his hands to cancel a great many of these deferments. If this were applied at the present time, it would relate to 1,378,000 deferred students, and this June there would be 400,000 whose deferments would run out.

However, my amendment, obviously, in the present bill with its present language, is something that would take effect 2 years from now, under this law, when the draft law would terminate unless renewed at that time.

Section 17 (c) of the draft law states:

No person shall be inducted for training and service in the Armed Forces after July 1, 1971—

Now extended to July 1, 1973—

Except persons now or hereafter deferred under section 6 of the title if the basis for such deferment ceases to exist.

It is that section in particular, which

reaches those people, that this amendment is designed to change, as of the time when the draft law expires under present law, July 1, 2 years hence.

Just to give the figures of the number of young Americans who will be affected presently—and the number would be roughly the same 2 years hence, when this amendment would take effect—5,724,000 men hold deferments under section 6 and would still be vulnerable to the draft, were it not renewed.

This does not include those raising families and others with hardship deferments—1,378,000 students, 327,000 men who still hold occupational deferments, and 19,000 with agricultural deferments.

If we do not take this authority away from the President, we will leave future Presidents with a vast pool of manpower that they can ship to Southeast Asia or anywhere else in the world without asking for that approval from Congress.

That unlimited presidential power has been a source of much of the present problems we face. I believe that we would not be in Vietnam today if the President some years back had had to come to Congress to get the power to draft young men and get a man pool so readily available to him under the draft law. There also would not have been any Gulf of Tonkin resolution.

Mr. DOMINICK. Mr. President, will the Senator from California yield for a question?

Mr. CRANSTON. I am delighted to yield to the Senator from Colorado.

Mr. DOMINICK. Mr. President, it is my understanding that if we are lucky, we might get a bill on this sometime around July 15, according to the rumors I have heard around here, which means that the draft already expires June 30, something which I forecast last year.

My question is this: If this amendment is put in, this means between the time the draft will expire and the time we might possibly pass a bill of some kind, that the existing people who are under deferments will be subject to the draft, because under the terms of the deferments, they are eligible until 36. Under this amendment, is it not true, therefore, that we would only be applying to the elimination of that obligation those that have been undertaken after 1973, thereby creating a class distinction between those who will be subject to the draft by virtue of the filibuster that has been going on in this body and those who would ordinarily be subject to the draft even after it expired in 1973, which you would not now cut off? Is that correct?

Mr. CRANSTON. I do not quite understand the Senator's question. The Senator knows that my amendment would not become law, if it is adopted, until the pending measure becomes law. Therefore, if the draft law is not renewed after June 30 next week, the President will have the power to grab people whose deferments have run out after July 1, so that people who already hold deferments could be drafted.

Therefore, this amendment has no effect on the present power of the President to draft after next Wednesday at midnight. This is actually where he could get some manpower, if he wishes, from the presently deferred people, until and if the draft law is reconstituted.

Mr. DOMINICK. I thank the Senator from California very much. That would create two classes.

Mr. CRANSTON. At the present time there are two classes—those who are deferred and those who are not. This would mean that from 1973 on, for perhaps 15 years, there would be a class of Americans to whom the draft law would pertain. They could be called from their schools, their homes, or their jobs by the President without any necessity for him to come to Congress for authority. To give that blanket authority to have a manpower pool with which to fight undeclared wars is the very situation that caused Congress to focus its attention on the draft laws that we are now seeking to focus on.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 3 minutes.

Mr. STENNIS. Mr. President, this is not a simple matter. It seems to me that the very justice of the situation is apparent.

The present draft law expires June 30 as to inductions. Those people who have been deferred under the Federal law will nevertheless still be subject to being called. There is nothing unfair about that, because they will already have been called, some of those that have not been deferred. However, they were given preferential treatment to some degree, while all the others stood in line and took their chances. There is no reflection on anyone in being deferred.

If the amendment is agreed to and the bill never becomes law, the amendment would never be effective. So, to that extent it would be a nullity.

Does the Senator from California propose if this amendment becomes law to excuse those who have been deferred, the men who are finishing college this year and have used up their college deferment? Would they be exempt under the amendment if the bill becomes law?

Mr. CRANSTON. They would not be.

Mr. STENNIS. Who would be then?

Mr. CRANSTON. Under the present law, and if the bill we are working on becomes law, any young Americans eligible for the draft can be drafted by the President and inducted by the draft board. If they do not have a deferment, it is automatic. If they do have deferments, when they lose the deferments, those either who leave school, graduate from college, their job situation changes, or their hardship situation changes, they can then be drafted if the President feels that he needs more men.

He has the authority under the present law to cancel millions of these deferments. All of that power would remain as it is until June 30, 1973, under this law. But under the law, if my amendment is adopted, when the draft law expires June 30, 1973, if it is not amended, the power to reach out into the future of the particular President at the time to draft any other Americans without asking Congress would die.

Mr. STENNIS. Mr. President, the Senator has made that clear. The amendment, if it becomes law, would not become effective until June 30, 1973.

Mr. CRANSTON. The Senator is correct.

Mr. STENNIS. Mr. President, my point is that there will be plenty of time to make the decision before then as to what to do with these deferees. The only fair thing to do is to treat them all alike and keep that same equality. Then, the next time the Selective Service extension is decided, that will be the time to decide what should be done to those who are left over.

I do not have any doubt that if they are not used, they will be excused from the possibility of service. I do not have any doubt about that. However, if we assume a lot of facts that have not as yet developed, and we do not know what they are, I submit that we are getting the cart before the horse.

I think we ought to continue to keep them all under the same law and have the same operation apply without dividing them up and classifying them and excusing them automatically.

Mr. CRANSTON. Mr. President, the Senator from California does not believe any draft law can be made fair. The draft law is inherently unfair. We have sought to make the draft laws more fair in some ways. However, the draft law cannot work fairly. I think that every Senator recognizes that.

The only issue is, Shall the President have the power everlasting, down through the years, to draft Americans without consulting Congress as to the international situation that he deems makes it necessary to draft those young men and send them to fight in foreign places.

If the Senator from Mississippi doubts that this authority should ever be used, why do we not make sure that he cannot do that without consulting Congress by agreeing to the amendment?

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, the pending amendment, No. 99, offered by the distinguished Senator from California, Mr. CRANSTON, should be defeated.

It is designed to prevent the Government from calling to military service those persons who may have been deferred previously.

If the pending Selective Service Act should expire, the only way manpower needs could be met would be through the callup of men previously deferred.

Mr. President, I oppose this amendment on the grounds it would deny our Government the means to provide for the minimum manpower resources required to insure our Nation's security.

I urge the Senate to reject this amendment on the basis that it would serve as a device to strengthen the hand of those who favor the elimination of the draft

for the next 2 years, and deny our Nation the needed manpower for the services.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. CRANSTON. 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.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? [Putting the question.]

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 99) of the Senator from California. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, may we now have good order in the Senate so Senators can hear their names?

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats.

The assistant legislative clerk continued the call of the roll.

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. The clerk will not proceed until the Senate is in order.

The clerk may proceed.

The assistant legislative clerk continued the call of the roll.

Mr. BYRD of West Virginia. Mr. President, speaking for myself only, I cannot clearly hear the names called. I do not know whether I voted yet or not. I cannot ascertain it.

The PRESIDING OFFICER. The Senate will be in order. The well will be cleared.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. BYRD), the Senator from Missouri (Mr. EAGLETON), the Senator from Montana (Mr. METCALF), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) would vote "yea."

Mr. GRIFFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Ohio (Mr. SAXBE) is necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent by leave of the Senate on official business.

The Senator from Vermont (Mr. PROUTY) is detailed on official business.

If present and voting, the Senator from South Dakota (Mr. MUNDT) would vote "nay."

On this vote, the Senator from Massachusetts (Mr. BROOKE) is paired with the Senator from Pennsylvania (Mr. SCOTT). If present and voting, the Senator from Massachusetts would vote "yea" and the Senator from Pennsylvania would vote "nay."

The result was announced—yeas 29, nays 61, as follows:

[No. 123 Leg.]

YEAS—29

Bentsen	Hartke	Muskie
Burdick	Hatfield	Nelson
Case	Hughes	Pastore
Church	Humphrey	Pell
Cooper	Inouye	Percy
Cranston	Javits	Proxmire
Fulbright	Mansfield	Schweiker
Gravel	McGovern	Stevenson
Harris	Mondale	Williams
Hart	Moss	

NAYS—61

Aiken	Ellender	Miller
Allen	Ervin	Montoya
Allott	Fannin	Packwood
Anderson	Fong	Pearson
Baker	Gambrell	Randolph
Beall	Goldwater	Roth
Bellmon	Griffin	Smith
Bennett	Gurney	Sparkman
Bible	Hansen	Spong
Boggs	Hollings	Stennis
Brock	Hruska	Stevens
Buckley	Jackson	Symington
Byrd, W. Va.	Jordan, N.C.	Taft
Cannon	Jordan, Idaho	Talmadge
Chiles	Kennedy	Thurmond
Cook	Long	Tower
Cotton	Magnuson	Tunney
Curtis	Mathias	Weicker
Dole	McClellan	Young
Dominick	McGee	
Eastland	McIntyre	

NOT VOTING—10

Bayh	Metcalf	Saxbe
Brooke	Mundt	Scott
Byrd, Va.	Prouty	
Eagleton	Ribicoff	

So Mr. CRANSTON'S amendment (No. 99) was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote whereby the amendment was not agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

Mr. COOK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COOK. Is not that motion out of order under the cloture rule?

The PRESIDING OFFICER. No; the motion is in order.

Mr. THURMOND. Mr. President, I move to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

ENDING THE JOHNSON-M'NAMARA WAR

Mr. GOLDWATER. Mr. President, under the cloture rule voted by this body I am entitled to 1 hour's speaking time in which to make known my views on the various subjects raised in connection with the draft extension bill. I do not expect to use my full time but only so much of it as I feel is necessary to draw this complicated situation into its power perspective.

It all began, I am sure Senators know, with an attempt to use this bill as a vehicle for bringing about, or forcing I should say, the fixing of a date for the President for our complete and total withdrawal from Indochina.

I believe the whole effort was conceived politically and dedicated to the proposition that Richard M. Nixon should not receive the credit he deserves for winding down and moving to end the war in Vietnam.

Mr. President, I think it is time to say what we think on this issue. The fact of the matter is that President Nixon, with his Vietnamization policy and troop withdrawal rate, has undone about three-quarters of the military escalation that began with President Kennedy and hit its high mark under President Lyndon B. Johnson.

The fact of the matter is that our friends on the other side of the aisle would clearly like to make it appear that they have forced President Nixon to bring about an end of America's participation in Indochina. There is no other construction that we can place on the actions of the so-called doves in this Congress. If there ever was any doubt as to how and when the military escalation began in Vietnam it was ended with the theft, the peddling, and the subsequent publication of secret documents compiled under Defense Secretary Robert McNamara while he was in office.

These papers show that the first sizable number of troops were sent to Vietnam—I believe the precise number was 16,000—during the administration of the late President John F. Kennedy. What is not generally known is that although those troops were described as "advisers" they carried with them orders to shoot back if fired upon in the Vietnam theater of war. Jungle war being what it is, it was inevitable that these troops would become involved in fire fights with the enemy and that America's direct participation with ground forces would have begun.

Mr. President, perhaps I might be pardoned for pointing out that the papers printed by the New York Times and other newspapers disclose that the Johnson administration was busily planning a massive and costly buildup of military men and machines in Vietnam even during the political campaign during which I was cast in the dubious role as the only candidate that might want to escalate the war in Vietnam in order to produce a quick victory for the forces of freedom.

Mr. President, I realize that these papers further prove that administrations as far back as that of Harry Truman can be blamed for some degree of guilt, if such is the name for it, for getting us involved in the dirty, frustrating, heartbreaking conflict in Indochina. But I think we have to, when names are applied, call this one "The Johnson-McNamara War" even though hostilities had begun in the prior administration of President Kennedy, the amount of American forces committed were still small enough to make it nothing much more than a—you will pardon the expression—"police action." In addition, in the Kennedy administration the myth that our

troops in Vietnam were advisers still held good. Therefore, we could have easily withdrawn those advisers on the pretext that nobody would take their advice.

This brings us down to the Johnson administration and the clever manipulations—the covert war and all the rest—that were cooked up by McNamara and approved by President Johnson. In these years began the longest, the costliest, the most unpopular and the least successful war in American history.

And of all the Presidents involved, only one—let me repeat and underscore only one—Richard M. Nixon—did anything but escalate; did anything but increase our commitment of men, money and machines to the war in Indochina. Only one President took it upon himself to reverse, to directly change the course of American participation in the Southeast Asian hostilities. Only one President began to get our men back from that useless conflict. Only one President succeeded in reducing rather than increasing the casualty rate among American fighting men. Only one President, in brief, has taken direct, deliberate and meaningful action to end the war and end the killings and end the expense of Vietnam.

Given this situation, Mr. President, is it any wonder that legislators of the dove variety—particularly those who belong to the political party that can claim credit for turning a police action into a full-scale, all-out war—are determined to make things appear different from what they are. Just recently, for example, the man widely credited with distributing Government secrets to which he had no right is quoted as charging that President Nixon is following the old pattern of escalation. Other anti-Nixon and anti-Defense lobbyists in this country have done their best to try and make people believe that a withdrawal of hundreds of thousands of American troops constitutes a widening of the war, just because some of those troops remaining were used to advise the South Vietnamese on operations in Laos and Cambodia.

I said it is time to call the shots the way they are. And I say this whole business in the Senate right now can be put down to an exercise in political gamesmanship aimed at the 1972 Presidential election. Our leftist friends, especially those who aspire to the position of Chief Executive on the Democratic ticket, are in this exercise right up to their necks. If this is not true, it is about time we ask—in light of the Pentagon papers recently published—just where were the doves when it really counted; where were the doves when President Kennedy was sending the first contingents of troops to Indochina; where were the doves when the Johnson administration was conducting a covert war and planning and executing a massive military escalation in Vietnam? The answer to that question and to many more cannot help but show that the majority of those bent on making President Nixon fix a date for total withdrawal from Vietnam are using the war, the prisoners of war and all the ramifications of that war for political purposes.

Mr. President, if this is not true, perhaps it is time to pose a number of questions such as:

Why did not the doves sponsor and publicize and push for the enactment of a resolution setting a deadline for President Johnson to halt the shipment of troops to Vietnam? Why did not the doves try to limit the President's war powers when they had a President who was using those war powers to arrange an excuse—the Gulf of Tonkin—to obtain congressional approval for unlimited military action in Vietnam? Why did not the doves hold up or attempt to erase the military draft in those days when a Democrat President was using the conscription law for purposes of escalation?

We might ask why the Senator from Massachusetts (Mr. KENNEDY) failed to denounce a Johnsonian policy leading to "war and more war" rather than reserving his charge for President Nixon's deescalating policy of Vietnamization. One wonders where Senator KENNEDY stood on the question of sending 16,000 military "advisers" to Vietnam when his brother held the position of Commander in Chief.

Mr. President, the questions along these lines are indeed endless if we are to be fair to the man the American people chose in 1968 to lead them out of this war—and if we are to be fair to the people of this country, especially those who made the heartbreaking sacrifice of sons killed in action—and if we are to be fair to our allies and to ourselves and to the honor of our Nation we have to ask questions. Some of them are embarrassing questions but they have a direct bearing. They are designed, at least in this instance, to unmask the propaganda campaign being pushed on many levels to make President Nixon look like a man determined to prolong this war. Let us get on to a few of these additional questions.

Why did not Clark Clifford, who served as General Counsel to President Truman, as President Johnson's closest personal adviser and later as President Johnson's Secretary of Defense, offer suggestions for obtaining the release of American prisoners when he held a position of authority or influence? Instead, Mr. Clifford seems to have waited until his personal as well as his official credentials had lapsed before suggesting that he had secret information that American POW's would be released if a deadline was set for Americans total withdrawal from Vietnam. It seems Mr. Clifford obtained his information at a time, at the exact time, when it could do the most to pressure a Republican President; as a matter of fact, subsequent revelations including interviews with enemy negotiators at the Paris Peace Talks indicate that Mr. Clifford either misunderstood the attitude of the Communists or deliberately misrepsented it at a time of important political advantage.

And then, Mr. President, in all fairness, we have to ask why did not John Gardner use his considerable influence as a member of the Johnson Cabinet to work for a withdrawal of troops from Vietnam? In fact, we have no indication that Mr. Gardner opened his mouth, much less raised his voice while a member of L. B. J.'s "official family" to protest the mass escalation of the war and its attendant expense and attendant death rate on all sides of the conflict. No, Mr. President, we never heard those things Mr. Gardner speaks of in any important fashion until recently, after he had formed a direct mail organization called Common Cause and began enlisting money and members in the name of a campaign to withdraw the United States and all its forces from participation in the struggle for the freedom of South Vietnam. It is strange—it is strange indeed, Mr. President—that men like Gardner and Clifford withheld their important propaganda attempts to end the war until the job was three-quarters done by our Republican President with whom they disagreed politically.

And while we are marveling at the fact that allegedly conscientious doves failed to flutter their wings until the Republican process of deescalation had replaced a Democratic process of escalation. But I doubt whether it would be fair to those leaders who have taken part in the massive attempt to discredit our President and in so doing downgrade our country unless we ask a few more pertinent questions to get on with it:

Why did not the PROXMIRES and the MCGOVERNS plague the Johnson administration with demands for an immediate and drastic reordering of national priorities so that money spent in Vientam could more quickly be spent on their pet social welfare projects? Why did not the Senate liberals start demanding an end to the waste, the inefficiency, the extravagance and the scandal in the Department of Defense when their fellow liberal, Robert McNamara, was busily arranging the costly mess that the Nixon administration found waiting for it in the Pentagon? And why did not Senator McGovern insist on 40–50 percent reduction in defense expenditures when his friend McNamara was in charge of what can only be called a useless squandering of the taxpayers' money on esoteric but thoroughly impractical projects?

By the same token, we might ask why Senator PROXMIRE and his Subcommittee on Government Economy waited until a Republican President was in office to declare war on the U.S. supersonic transport program and all that that means to America's technological leadership, and to the prosperity of the aviation industry and the jobs of thousands of Americans. After all, the SST program had been underway in the United States for 10 years and it had been funded in each session of Congress without any major controversy until the recommendation came up from a White House which was held by a Republican President.

The fact is that many of those people and organizations which are now joining in the assault on the war in Vietnam are, in fact, assaulting the Nixon administration. The fact also is that many of the people now participating in a "holy war" for total withdrawal from Vietnam are many of the same people who either supported, helped promote, or at least

acquiesced in the prosecution of that war during Democratic administrations.

Not long ago some of these same so-called lovers of peace were demanding the withdrawal of American troops along the lines on which President Nixon is now proceeding. But it seems that nothing in the way of deescalation counts so long as it is done by a Republican administration.

Mr. President, I do not mean to foreclose the idea here that men in public life are entitled to change their views, especially on an issue as important to the Nation and to its people and to freedom throughout the world as is the war in Vietnam. But I believe that the mob attack on the deescalation policies of President Nixon which were nonexistent except in a very minor degree when President Johnson was in the process of escalation is strictly political in the main.

When Clark Clifford, for example, comes forth with an idea for withdrawing all U.S. forces from Indochina by December 31 as a move to obtain a release of American POW's, one is bound to wonder why he did not suggest—or sound the enemy negotiators out on—such a proposal when he was a part of the U.S. Government. And where Clifford is concerned, Mr. President, I think it would be derelict of me not to point out that in October 1969, Mr. Clifford denounced former Senator Charles Goodell's plan for fixing an end-of-the-war date as "unrealistic and impractical." Mr. Clifford, at that time, insisted that such a plan would result in the collapse of the military and the collapse of the Government in South Vietnam and said that the resulting "bloodbath" would be on the American conscience for a long time.

Mr. Clifford may have changed his mind. But those much closer to the picture and those in a position to know many more facts than Mr. Clifford believe that the plan he is now proposing could also result in a bloodbath. Perhaps the important question is whose administration is in power when the bloodbath takes place and has a long-range effect on the American conscience.

Mr. President, I am struck with one important thing in all of this wide-range debate and that is the enormous amount of time that the U.S. Senate has spent since President Nixon took office in talking about issues near and dear to the heart of our Communist adversaries. Think it over. If you were boss of the Kremlin, would you be chuckling over an extended filibuster to force an end to the military draft for the specific purpose of making it impossible to continue upholding the forces of freedom against Communist aggression in Vietnam? If you were boss in the Kremlin, how would you feel about legislation to cut off all funds for the war in Vietnam, to reduce our defense budget far below the point of adequate security, about the passage of legislation to take us out of the competition for the future aviation market represented by the supersonic transport? How would you feel, do you suppose, about uninformed attempts by organized Americans to cut all military preparedness right across the board? How would you feel about the repeated attempts to prevent this country from developing new weapon systems or of even developing a missile defense system comparable to the one in the Soviet Union?

Mr. President, I think it is time for us to take a good long look at where we have been, and where we are and where we are going in a world that is changing so fast that the very thought of American isolation is downright ludicrous. It would be laudable if it were not so tragic. After all the years we have spent putting our technical knowledge and economic assistance to strengthen the forces of freedom throughout the world, our withdrawal, our pulling back even a little bit is to court disaster. We are today, in most categories of military defense, a second-rate world power. The question now becomes, Will we remain a second-rate world power or will we let the wishful thinkers and the deliberate disarmers and the isolationist dreamers move us down to a third- or fourth- or fifth-rate power?

In conclusion, Mr. President, let me say that President Nixon is winding down this war and withdrawing our troops as quickly as he possibly can. I am inclined to believe he knows the need far better than anyone else in this country. And the rate of withdrawal will not be stepped up no matter how many resolutions are passed incorporating a sense of the Senate or incorporating a flat-out order to withdraw. The reason at this point is very simple: It is logistically impossible to hasten the rate of withdrawal by any appreciable degree. Secretary of Defense Melvin Laird estimates that it would take at least 9 months to withdraw all military personnel and an additional 3 months to withdraw or dispose of the equipment we have in depots in Indochina.

So what we get down to, Mr. President, is strictly a matter of political gimickry called "the date debate."

Given the importance of this issue to the free world, to our national strategic interests, to our fighting men, to our individual hard-working taxpaying American citizens, this kind of gimickry is not only undignified but it is indefensible.

The Senate of the United States should be big enough to cheer on and encourage a President when he is doing his best on behalf of all our people just as it should be big enough and courageous enough to condemn a President when he is not striving in the best interests of all Americans.

The way I see it the Senate was not in a frame of mind to be courageous about the escalation of the war when it was taking place but now all kinds of courage is springing up to claim the rate of deescalation is not rapid enough. This is a shoddy performance at the very best.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on June 23, 1971 the President had approved and signed the act (S. 557) to amend the Wagner-O'Day Act to extend its provisions relating to Government procurement of commodities produced by the blind to commodities produced by other severely handicapped individuals, and for other purposes.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. CHILES) 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 Senate proceedings.)

THE MILITARY SELECTIVE SERVICE ACT

The Senate continued with the consideration of the bill (H.R. 6531) to amend the Military Selective Service Act of 1967; to increase military pay; to authorize military active duty strengths for fiscal year 1972; and for other purposes.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 225

Mr. KENNEDY. Mr. President, I call up amendment No. 225, offered by Mr. JAVITS, Mr. BAKER, and myself.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be waived, and that, to help distinguish it from the amendment voted on last week, the amendment be printed in the RECORD.

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

Mr. KENNEDY's amendment (No. 225) is, as follows:

On page 33, between lines 13 and 14, insert the following:

(33) At the end of the act add a new section as follows:

"PROCEDURAL RIGHTS

"SEC. 22. (a) It is hereby declared to be the purpose of this section to guarantee to each registrant asserting a claim before a local or appeal board, a fair hearing consistent with the informal and expeditious processing which is required by selective service cases.

"(b) Pursuant to such rules and regulations as the President may prescribe—

"(1) Each registrant shall be afforded the opportunity to appear in person before the local or any appeal board of the Selective Service System to testify and present evidence regarding his status.

"(2) Subject to reasonable limitations on the number of witnesses and the total time allotted to each registrant, each registrant shall have the right to present witnesses on his behalf before the local board.

"(3) A quorum of any local board or appeal board shall be present during the registrant's personal appearance.

"(4) In the event of a decision adverse to the claim of a registrant, the local or appeal board making such decision shall, upon request, furnish to such registrant a brief written statement of the reasons for its decision.

"(5) Each registrant shall have the right to be accompanied and advised by private counsel before any local or appeal board. Un-

less otherwise ordered by the board, such counsel shall not be permitted to participate in the proceedings except to advise his client."

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, for the information of Senators, I do not think this will take a great deal of time; I expect to speak on it for only 6 or 7 minutes. I know that the Senator from Tennessee (Mr. BAKER) wishes to speak likewise, and the Senator from New York (Mr. JAVITS) rather briefly; and then I think, unless there are some other overriding questions brought up, we will be prepared to put the matter to a vote. I do not think more than perhaps 40 or 45 minutes will be required for the disposition of this amendment.

Mr. President, last week the Senator from New York (Mr. JAVITS) and I offered an amendment to guarantee some rather basic and fundamental rights to the registrant when he appears before the local draft board, and to guarantee certain rights to him as he carries the decision of the local draft board up to the appeal board.

The Senate voted on that amendment, and we were defeated. I think many of the reasons that we lost have been met by this revised amendment. In drafting it, we have tried to take into consideration a number of the points that have been raised by the chairman of the Committee on Armed Services.

I believe that this amendment would accomplish what we had hoped to achieve with the amendment we offered last week, but it does meet many of the objections which were mentioned on this floor prior to the vote last week.

Mr. President, I should like to explain briefly what this amendment would do.

First, we have attached a new statement of purpose specifically outlining our intent to assure a fair hearing but a fair hearing consistent with the informal and expeditious processing required by selective service cases.

Also, all of the new guarantees are specifically controlled by rules and regulations to be prescribed by the President. Thus each registrant shall have the right to a personal appearance at the local and appellate level but only under rules and regulations prescribed by the President.

The right to present witnesses has been limited by providing that they may be authorized to appear only at the local board level. The previous amendment gave registrants the right to present witnesses at both local and appeal board hearings.

In addition, we have specifically included language indicating that the right to present witnesses shall be subject to reasonable limitations as to the number of witnesses and the time allotted to those witnesses.

Again, although we provide that a quorum of local and appeal boards shall be present during a registrant's personal appearance, even this is now specifically prescribed by the rules and regulations as the President may issue.

So it is that in providing under subsection (4) for registrants to be entitled to written decisions, we also have established exact parameters to that right.

Thus, only when there is a decision adverse to the claim of a registrant and only when the registrant specifically requests such a written statement must the board issue one.

In addition, we have specified that the written statement of reasons shall be brief.

Finally, although we extend the right of counsel before local or appeal boards, that right is much more narrowly described than in the previous proposal. Thus, counsel may only accompany and advise registrants but there is no right or authority for them to participate actively in the proceedings in any other way.

Mr. President, the Selective Service System as it exists today denies fundamental rights of due process, rights traditionally protected by both the fifth and 14th amendments of the Constitution.

As a result, an individual registrant may lose a deferment to which he is entitled, a deferment which might allow him to remain with his family or to avoid jail. In short, he is faced with the loss of his liberty and, whatever his obligation to his country, he is entitled to a fair hearing of whatever facts bear on his status.

That fair hearing is now denied him.

At a time when the youth of America are becoming more and more disillusioned with the American system, it is imperative that the 19-year-old receive the same guarantees of due process that are afforded to others with more power and influence within our society.

These rights are now given to corporations seeking broadcast licenses. They are given to companies seeking exemptions from FDA or FTC regulations. They are given even to the polluter who seeks a permit to expand his plant. Yet we deny those same rights—to witnesses, to written statements of decisions, to quorums of the deciding bodies, to appearance at appellate levels, to counsel—we deny those rights to the 19-year-old.

Perhaps the irony was best expressed in a letter from Villanova law professor Howard R. Lurie:

He wrote:

Suppose a Member of the House of Representatives introduces legislation to put taxation on the same basis as conscription. Incomes are to be taxed at 100 percent subject to such credits, exemptions, and deductions as the statute or the President by rules and regulations, shall provide.

The individual taxpayer must prove to the satisfaction of his local tax board that he is entitled to any particular credit, exemption or deduction, but he is not allowed to be represented by an attorney or accountant when he appears before it.

The board is not required to issue any written opinion regarding its determination of the taxes due from the taxpayer; no judicial review of its decisions is available, except as a defense to a criminal prosecution instituted against the taxpayer for failure to pay the taxes due; and the decision of the tax board is reversible only if there is no basis in face for the tax assessment.

No reasonable Member of the Congress would take such legislation seriously. It would be outrageous to treat taxpayers in such a fashion.

But in fact is it not equally outrageous to treat your young men in precisely the same manner? How can we justify calling these men to duty and at the same time treat them as second class citizens compared to other groups within our society. Surely, we should give the same protection of due process that we afford to others who face a threat to their property rather than to their lives.

Yet, we know that the very lives of the young men are at stake when they deal with the draft board.

I think the time is long overdue for the Congress to right the wrong that we have permitted to exist for two decades.

If we are convinced that fundamental standards of due process are guaranteed to all Americans, then let us apply these same standards to those whom we would ask to serve and honor our country.

I believe the passage of this amendment would help to insure basic and procedural rights, many of which have been recommended by the Marshall Commission. I believe the amendment would guarantee a sense of fairplay to the registrants, and would also be consistent with expeditious action by the board.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I yield.

Mr. ERVIN. Would the rulings of the draft board be subject to review under the Administrative Procedure Act?

Mr. KENNEDY. Proceedings under the Selective Service Act are not included under the Administrative Procedure Act as a result of section 13(b) of the Selective Service Law.

Mr. ERVIN. I am not an expert on the Administrative Procedure Act. I ask this question solely for information.

Mr. KENNEDY. This is an important point, because under the Administrative Procedure Act, most of the guarantees mentioned here would have been included.

What we are attempting to do here is to provide at least some of the rights that would go to a tax delinquent who might appear before the Internal Revenue Service or to a company or corporation that wants to get an FCC license. All these rights are guaranteed to them, but we do not guarantee these rights to those who can be inducted into the Armed Forces and might be asked to serve their country and die for it.

Mr. ERVIN. I accept as valid the assurance of the able Senator that proceedings under the Selective Service System are not reviewable under the Administrative Procedure Act.

Mr. KENNEDY. The Selective Service Act has been specifically exempted from the Administrative Procedure Act. Therefore, as the Senator has suggested by his question, the kinds of rights and guarantees that would have been under the Administrative Procedure Act are not now provided to registrants.

The chairman of the Armed Services Committee has stated some rather important reasons for so exempting the Selective Service System. Thus, we have

tried to provide these rights without including all of the requirements of the APA.

Mr. ERVIN. I thank the Senator. I do not profess to have any great knowledge of the Administrative Procedure Act. The administrative law has changed considerably since I stopped practicing, and I have had very little experience with administrative law.

I am very much troubled, however, by the procedure which approximates the induction manual of the Army with trial before a court.

I think it is unfortunate to approximate a man being called on to serve his country with a man being prosecuted for a criminal offense in the courts. I cannot see the similarity between a man being called to serve his country and a man being prosecuted for a crime against his country.

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

Mr. KENNEDY. I yield.

Mr. BAKER. Mr. President, I speak on my own time.

I wish to join the distinguished senior Senator from Massachusetts in urging that the Senate adopt this amendment. I do so as one who voted against amendment No. 139, a similar amendment, which would have authorized counsel for inductees during their appearance before their draft board.

I commend the Senator from Massachusetts for making a substantial and meaningful distinction between that proposal and this one. Indeed, I think they are very different. I believe the key provisions of this amendment appear in section 5, page 2, and they are as follows:

(5) Each registrant shall have the right to be accompanied and advised by private counsel before any local or appeal board. Unless otherwise ordered by the board, such counsel shall not be permitted to participate in the proceeding except to advise his client.

It seems to me that it is difficult, in the general scheme of our constitutional protection of individual integrity and individual rights, to say that any person, at any point in the governing process, would not have the right at least to advise with counsel or to have counsel present so that he can advise with him.

If we were providing here for the full, unrestrained right of cross-examination, it might be—indeed, I think it would be—an entirely different situation. But it is extraordinarily difficult for me to reconcile in my own mind how we, by implication or otherwise, can prevent anyone from having counsel present—not as a participant, except by leave of the court—for his own private consultation on matters of extraordinary urgency and importance to the man who is about to be inducted.

The distinguished Senator from North Carolina made a very good and a very telling point when he suggested that there is a real difference in the case of a man being tried for a crime versus a man being considered for induction for service to his country. They are, in fact, different things.

The right to counsel is not just accorded to those who are tried for crime. Clearly, the Constitution guarantees that right.

But the traditions of equity and justice in this country and the procedures that have been extended to the public for so long clearly imply in their very aspect that each man should be entitled to counsel at every proceeding in which his interests are materially involved. I think it would be difficult to challenge the contention that a young man's interests are not materially involved when he appears before his local draft board.

To reiterate, I voted against amendment No. 139. I thought it went too far. I have cosponsored this amendment, and I urge Senators to adopt it as an amendment to the Selective Service Act. I do that in view of the fact that, as I previously announced to the Senate and publicly, I intend to vote against the extension of the Selective Service Act. But I have an idea that my view in this respect will be in the minority and that the Selective Service Act will be extended. If that is the case, I think this is an important judicial right, not constitutionally protected, but highly desirable, on the part of young men who are about to pay the tax which is the burden of the Selective Service System.

Mr. ERVIN. Mr. President, I think that the most patriotic people in the United States are those who now serve upon the selective service boards. They serve without compensation. They serve as a patriotic duty. I think that they now, by informal administrative procedure, give protection to all those with whom they deal as registrants.

I cannot conceive of any good purpose that could be served by this amendment. It seems to me that it would have a deterrent effect upon the willingness of persons to serve on selective service boards.

In the first place, the procedure would be of advantage to those who are highly advantaged and who have enough of this world's goods to retain lawyers to represent them. It would convert the Selective Service boards into something in the nature of judicial tribunals. It would require them to grant a hearing at length, because there is no limit upon the number of counsel a person can have to advise him.

From my experience in the practice of law, I can assure the Senate that lawyers can advise a client a long, long, long time, especially if the person is so fortunately situated as to be able to pay them a handsome recompense for so doing.

This amendment provides that the board sits as a court. A quorum would have to be in attendance to hear the registrar testify regarding his status. He could be accompanied by an attorney.

In addition, the amendment reads: "Subject to reasonable limitations on the number of witnesses." I do not know what is a reasonable number of witnesses. This amendment does not specify. But I once knew of an accused who subpenaed approximately 260 witnesses in a blockading case to testify that they did not see him at a still. Under this provision, witnesses can be multiplied world without end, with no way to determine when the limit of a reasonable number of witnesses is reached. What is a reasonable number of witnesses in one case might be quite unreasonable in another.

We have seen trials such as the Manson trial, which started in June, I believe, and wound up about the following March.

The amendment also contains a provision—which cannot be dispensed with by the President—that "a quorum of any local board or appeal board shall be present during the registrant's personal appearance."

Of course, they have to be present to make any decision, because it takes a quorum to make a valid decision. Who will be willing to serve for nothing upon a draft board when he is confronted by the possibility that instead of merely discharging his present duties as a member of the draft board, he has to act in the capacity of judge and jury, not only to hear the registrant but also to hear a number of witnesses that he or his adviser can claim are reasonable in number? Then, in addition after they get through with the hearing, the draft board members have to write a written judgment and deliver it to the registrant.

Mr. President, it seems to me that this amendment would create this situation: If we needed to draft men for our defense, before we got through with this kind of proceeding, the war would be over and if we could not get some volunteers to fight for America, America could be defeated.

Although I am one who believes strongly in due process, and the rule of law, I submit that the pending amendment would create a serious impediment to the enforcement of the draft law.

It could be used to prevent for an interminable period of time the induction of a person who should be inducted, which would greatly handicap the capacity of the United States to defend itself in situations where it required a military force for its defense.

I, therefore, hope that the Senate will defeat the pending amendment.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. BENTSEN). The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, I am a cosponsor of the amendment. It is an amendment which I believe is very important. Indeed, one of my reasons, if not the prime reason for voting against cloture—as I favor the bill and will vote for it—is attributable to the fact that this particular amendment had not been heard.

It is so interesting to me that we throw constitutional protections around criminals, or those accused of serious crimes, felonies, and so forth—which is quite proper, of course—yet there is a loud outcry against doing it for draftees.

I might say to the Senator that my office has received a call from the selective service director in my State saying that we will wreck the Selective System if the pending amendment is agreed to. But when we question him as to what is

in the amendment, he did not know, but told us he had been informed such a complex and legal procedure is involved in the amendment it would cause the Selective Service System to collapse.

There was a famous New Yorker named Al Smith who used to say, "Let us look at the record."

I would suggest to the Senate that, in elementary justice, the thing to do is to look at the terms of the pending amendment. That is what the Senate will be voting on, not on a generalization about due process.

I have done my utmost to work with the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Tennessee (Mr. BAKER) to draft a lawyer-like document fully cognizant of what due process requires and what we can and cannot do in regard to Selective Service.

I would wish to represent the Senate, for myself, that I cannot, for the life of me, see how the amendment will, in any way, hamper, interfere with, or delay the selective service process. Yet, it will, to some extent—certainly not entirely—it is not a trial—give some feeling to the draftee that he has an opportunity to have his say, whatever that may be, and at least that he will have the opportunity to make his own defense if he feels he should not be called upon to serve.

Looking at the record, Mr. President, here it is: he is to have a fair hearing, but:

Consistent with the informal and expeditious processing which is required by selective service cases.

Then, at my insistence, the distinguished Senator from Massachusetts (Mr. KENNEDY) was gracious enough to make everything that is detailed subject to such rules and regulations as the President may prescribe.

That heads the list before we get into the details.

When we go down the list, what do we find?

That he is to appear in person. He does now.

That he is to testify and present evidence. He does now.

The rules and regulations put a reasonable limit, whatever the President decides is fair, on the number of witnesses and what time will be allotted to each registrant. Within that limit, he will have the right in a formal way to present witnesses.

The amendment provides that—

A quorum of any local board or appeal board shall be present.

Mr. President, a quorum does not mean a majority. It means what the rules and regulations say. For instance, in many subcommittees of Senate and House a minority of the committee is an adequate quorum, often just one member of the majority party and one member of the minority party.

In the event of a decision adverse to the claim of the registrant, the local or appeal board making such decision shall, upon request, furnish to such registrant a brief written statement of the reasons for its decision.

That does not mean a legal opinion. It could be eight words, in accordance with what the rules and regulations of the President mean, so that the draftee knows why he will have to accept the fate which is his.

Finally, on the question of appearance by counsel, counsel is not to be paid, and not to be assigned or permitted to argue or even to participate in the proceedings. But he certainly has the right to sit next to his client and tell him what his rights are. That is all we ask for.

Mr. President, the amendment is as spartan, as bare bones a set of rights as any man could ever be given in the most elementary fairness.

It seems to me that we have really exceeded ourselves as lawyers in trying to give some codification to what is fair in terms of a hearing and in no way interfering with the system of selective service; and if we have, the President can handle it because we give him full authority. There is not a single right given that is not subject to the regulatory power of the President.

I respectfully submit that we have done a good job, not a bad job, and that this is an elementary code of fairness which should be extended to every draftee.

I, therefore, hope very much that the Senate will adopt this amendment.

Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER (Mr. NELSON). The Senator from New York is recognized for 1 additional minute.

Mr. JAVITS. Mr. President, one other point which is critically important, and that is morale. That is a big factor in this country today. We are having deep problems with the motivation of workers and the motivation of draftees—even with the motivation of Members of the House and Senate. I deeply feel that anything we can do to buttress the feeling of the individual dealing with this overwhelmingly powerful machinery which is called government, that he is getting some kind of decent break, we should do.

I would welcome the suggestions of anyone to simplify and expedite this procedure even more, to see that it in no way interferes more than we already do in this amendment.

I deeply feel that we have done a good job here and I hope that the Senate will agree to the amendment.

Mr. ERVIN. Mr. President, one observation: except where the law expressly provides to the contrary, it requires a majority of any governmental body to constitute a quorum.

Mr. ALLOTT and Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER (Mr. NELSON). The Chair recognizes the Senator from Colorado.

Mr. ALLOTT. Mr. President, I yield to the Senator from South Carolina first.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 4 minutes.

Mr. THURMOND. Mr. President, the pending amendment involving procedural rights for draft registrants is a weaker version of an earlier amendment on this subject offered by the distinguished Senator from Massachusetts (Mr. KENNEDY).

This amendment, however, would still make draft board procedures similar to courtroom procedures. It would be a bonanza for draft lawyers who are presently pulling down fees ranging up to $5,000 per case to delay or prevent induction of young men. Legal aid to young men who wish to evade the draft has become a full-time job for many lawyers and this amendment would give them a new tool in this effort.

As under the previous amendment, these provisions would favor the rich who could afford private counsel to assist them in fighting an induction call. The registrant is still considered to be the "client" and the result will be a courtroom-type procedure. The amendment approaches the draft situation as a matter of punishment rather than privilege. The draft has never been known to induct men who have a strong basis for exemption.

Section 1 of the amendment would permit the registrant to appear in person before the local or any appeal board to present evidence regarding his status. This provision alone could stretch out board actions for months since board members give their time without pay and would be unable to attend numerous meetings to meet the demands of scores of registrants trving to avoid the draft.

Section 2 allows for "reasonable limitations on the numbers of witnesses" for each registrant. Here again the amendment offers a classic delaying tactic.

Section 4 requires that in the event of an adverse decision to the claim of the registrant, a brief written statement on the board decision is required. This would mean that any young man who protests induction would have to receive a written statement on the basis of the board's action. Thus, many of those classified 1–A would have to receive statements and again draft processes would be slowed and impeded as boards do not have the administrative personnel to handle the amount of paperwork which would ensue.

Section 5 provides for a "private counsel" who under such a broad interpretation could certainly be a lawyer. While the lawyer could not speak he could advise his client and long delays in the work of the board would surely follow.

Mr. President, the great majority of local board members are not attorneys by profession and would therefore not be well versed on all the legal technicalities which might be presented by the registrant on advice of his counsel.

Thus, it is believed that local board members would have to be represented and advised by legal counsel if the registrant were advised by counsel. This, along with the presentation of witnesses by the registrant, would greatly prolong the proceedings as legal points were discussed.

Mr. President, I am opposed to this amendment on the grounds that our present system is working fairly and the

judicial elements of the courtroom are not needed at the draft board.

Mr. ALLOTT. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLOTT. Mr. President, I rise to oppose the amendment. I can explain in a few words the reasons why I do so and why I believe it would not be to the best interest of the United States to agree to the amendment.

Mr. President, I have listened to the remarks of the distinguished Senator from North Carolina and just now to the remarks of the distinguished Senator from South Carolina. I agree with those remarks.

First of all, I find no compelling evidence that the current procedures are not adequate. Every Member of the Senate in the time he has been here has had, not one, but dozens and even hundreds of people who have appealed to him upon the basis of action that has been taken concerning them before a draft board.

I might say that in all of those situations that I have personally investigated, I cannot recall one instance in which I thought the local draft board or appeals board had acted in an unfair or in an unjust way to the draftee. Of course, the inductee does have an appeal now.

I have found in my own experience that that appeal procedure is generally just and speedy, and takes into consideration all of the elements involved in the man's induction plus, I might say, the humanitarian reasons which the inductee has set forth.

In addition, Mr. President, it seems to me that there is no reason to graft the procedures involved in the amendment onto what is a nonjudicial process. One of the reasons I oppose the amendment is that it creates an adversary atmosphere for the induction process. It makes an adversary proceeding out of what is not now an adversary proceeding and I do not believe we should ever have an adversary proceeding when we are considering the induction of a young man into the service.

We would require by the amendment that the young man be permitted to bring his attorney with him. It is true that the original amendment has been watered down in this respect. However, by the time the attorney advises his client and by the time the client says to the draft board what his attorney has told him to say, I can imagine that we will be experiencing something like one of these abortive trials around the country which have received so much publicity in the last few years.

This is not a judicial process about which we are legislating. To put the inductee in the position of being an adversary to the Government is a wrong position in which to put him. The purpose of the process we are talking about is merely to find out whether a young man is qualified to be an inductee and how he should be classified.

The next point I would like to make is that these boards, as everyone knows, are composed of volunteers.

Yesterday we had an amendment before the Senate that would have required that these people who wished to be board members would have to take a special civil service examination and pass that examination with a certain grade before they would be permitted to serve on the board.

Mr. President, if we did something like that, we would not get a handful of draft boards in this country staffed. The amendment we are now considering is a movement along the same line in that it will make life terribly difficult for local boards.

What would we do if a draftee, or an inductee, as I prefer to call them, were to appear before the board with his attorney and then start in on a long adversary matter? By force of the facts and circumstances, the inductee would be put in the position of a defendant. There is no reason why any young man who is called upon to serve his country through the draft laws should be put in the position of a defendant. And that is what the insertion of the counsel would do.

More than that, it would require by force of facts in every case that where an inductee appeared with his attorney, the board itself would have to go out and hire another attorney. Would the additional cost, the additional trouble, the additional governmental machinery we would have to build up justify what would be accomplished? I think it is a mistake to move these proceedings into an adversary process. And that is what it does.

Mr. President, it seems to me that this will surely encourage a poor man's army, because the people who can afford counsel—and as the distinguished Senator from South Carolina stated a few minutes ago, there are those who now are receiving vast sums for representing people and advising them with respect to the draft laws and advising them how to avoid the draft—will not be the poor men. It seems to me that it is a serious mistake. We do not want a poor man's army.

This country took a great step forward in the recent reformation of the draft laws. For the first time since we have had a draft in the last 20 years, we have finally gotten to the place where a young man would find out with certainty if he was going to serve when he reached the age of 18 and registered and, perhaps, when he was going to serve.

I know of no two things—and I have said this in a hundred speeches—that have bothered the young men of this country more than the fact that they could not find out if they were going to serve and, if so, when. They had to simply sit and wait until they reached the age of 26. But we will take a step back from equity if we create a situation which works to the advantage of the effluent. Every Senator knows and everyone else knows that the poor will not have the lawyers and the rich will have lawyers. That is what it amounts to.

Finally, Mr. President, I am one of those who believe in a volunteer army. I would like to see a volunteer army. The Allott amendment, which was agreed to on the floor of the Senate recently, has put the remuneration of young people in the Army at a pay level on which they could afford to live.

Mr. President, as I have said before, I had this matter of inadequate military pay called to my attention when my son was in service. He called my attention to the situation of some of the enlisted men who were under his command. I feel very strongly about it and I am pleased that the Senate has now reformed the situation.

I believe in a volunteer army and I believe we are moving that way. But I am not going to vote, and I hope other Senators do not vote for something that sets up a semijudicial machinery that can only add to endless, endless litigation which will not speed up the process or relieve the anxieties of young men as to whether or not they will serve. I am not for building a quasi-judicial monstrosity, and that is what I think this is, which will make the draft unworkable. Instead let us work together reasonably for a volunteer army.

Mr. STENNIS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized

Mr. STENNIS. Mr. President, we had this entire subject matter before us in what I thought was an excellent discussion on June 17 in connection with an amendment that was very similar but somewhat broader than this one. That vote was 44 against the amendment and 32 for it.

This amendment has laudable purposes and it looks good on paper. But say what you will, Mr. President, this amendment creates a judicial procedure for a nonjudicial body of laymen to try to follow—a judicial procedure for a nonjudicial court, or the nonjudicial membership of a board to try to follow.

My argument, primarily, is that if we are going to change the system then we should change the nature of the boards and pay men that are trained in these fields of procedure, with some knowledge of the law, and have a good lawyer for them to rely on and a paid staff, more than just a clerk.

But the whole concept of the Selective Service board that acts at the local level is that their services are gratuitous. They are selected because of their commonsense and respectability in the community. They are asked to perform a civic and governmental chore that no one finds pleasant. Often they are at cross-purposes with their personal friends and their neighbors, and maybe with the sentiment of the community for the time being. But by and large they have rendered a fine service, a splendid service.

I remember these boards created first in 1917. Like it or not, talking about the presence of a lawyer there in this day and time, anyone can get legal advice when it is needed. But with reference to going before these lay boards, with members who are untrained and untutored in the law, with the lawyer, and I am a lawyer and I know how this works, I know that with that little board, as

defenseless as they are, it would get their dander up many times just to walk in there with a lawyer.

I think they have a better chance when they go in there without a lawyer. In fact, I know they do. They have a far better chance. The board is rendering what I call plain, common justice rather than legal justice, which is plain, common justice based on commonsense, in making judgments on their neighbor's son and young men who are their neighbors. That is the effort they are trying to make; they are trying to make a judgment with reference to various classifications. That is the main thing. They are trying to make a judgment with respect to the sincerity of conscientious objectors and the insincerity of alleged conscientious objectors, and a host of other things that come before them.

These men have to make hundreds of decisions each week and each month. It varies a great deal but there are over 16,000 to 18,000 members of these boards scattered throughout the country and they have to pass on thousands and thousands of cases.

I have learned that there are advisers in many areas who are available to the registrants and board members. They serve without pay. In some areas it does not seem to be needed and they do not have them. However, they are available in some places. They are called appeals agents and they are supposed to be lawyers, always available for counsel to registrants and to the board. That is just a community service. As I said, in some places they do not have them, but the point is that this system is run in a reasonable, down-to-earth, commonsense way.

There was talk about the "death sentence."

Mr. ERVIN. Mr. President, will the Senator yield for a question on my time?

Mr. STENNIS. I yield.

Mr. ERVIN. The amendment is absolutely unnecessary. During World War II I had the privilege to serve as an appeal attorney for appeals from local boards for a great many months, and during all that time I did not have a single person in my county making an appeal. In other words, the inductees felt the draft boards had been so fair to them there was no necessity to contest their rulings.

Mr. STENNIS. That is a fine evidentiary fact the Senator has given us and I thank the distinguished Senator from North Carolina.

With all deference, I am not referring to any particular Senator, I do not believe many Senators have the feel for the operation of these boards and the problems that go with the boards or the enormous load they carry. I have never heard of anyone applying to be a board member, but some of them have served for 15 or 20 years in their communities, performing this thankless task.

To say now they will have to try to answer in their way all these legal questions that can be brought up by a lawyer, and to permit all those who wish to do so to bring in a lawyer, the members of the boards already have the hearing room full on some nights and there would be no one to advise them or to help them think up answers to questions, if answers would require them.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. Mr. President, I yield myself 2 additional minutes.

Mr. President, in the broad base of commonsense, homemade local justice. I do not believe one could improve on this program. I know the good faith of the Senator from Massachusetts. He has worked on this subject matter for years, not just this part of it, but many parts of it, and has made a contribution to this subject, and I am glad to say so. Some of the conferences he and I have had certainly have been helpful to me. So I know he believes in this amendment.

But, Mr. President, this amendment overstates itself. It just has too much in it. It sets up all these procedures that we find in the criminal courts and the civil courts, and it calls for rules and regulations as the President may prescribe. That will not save these boards from having to go through all the matters provided for in the five paragraphs that follow, because no regulation would be valid that conflicted the least bit with the mandates in the five different paragraphs that follow. It says that each registrant shall so and so. It sets out what the board shall do. The President of the United States is not great enough to change these things once we put this into the chiseled stone of law.

This subject has been debated before. It has been understood by the Members of this body who have voted here that they reached a decision in keeping with the practices since 1917. I just do not believe we have been making great error all those years and discovered them just a few days or weeks ago.

Let us either totally change the system or give the local neighborhood people a chance.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

I think a couple of points should be made.

First of all, in terms of the extension of the selective system that has already been acted on, there will be only two grounds for deferment. That will be hardship and conscientious objection. We have eliminated the grounds of education and the other grounds. We are asking the boards to make a determination on the grounds of hardship and conscientious objection.

On the question of conscientious objection, one of the most important elements is the individual's sincerity and his deep feelings on the question as spelled out not only in the law but in the Supreme Court decision. These are the areas in which we are asking the draft board to make judgments. Therefore, as the New York Times noted in its editorial Sunday, the number of areas of contention has been reduced. Mr. President, I ask unanimous consent to include the excellent editorial which appeared in the Times, at this point in the RECORD.

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

FAIR PLAY FOR DRAFTEES

"A registrant," former Selective Service Chief Lewis B. Hershey once said, "is not an ordinary citizen."

The Senate apparently shares General Hershey's demeaning view of the status of the nation's draft-age young men. Once more the upper House has rejected proposals to extend to potential draftees what should be regarded under the American system of laws as minimal procedural safeguards to which every citizen is entitled: the right to be accompanied by a lawyer when ordered to appear before a draft board; the right to a hearing before a quorum of draft board members; the right to call witnesses and the right to receive a written statement listing the reasons for the rejection of a claim.

Senator Stennis argued that these reforms, introduced by Senator Kennedy would inflict an "impossible burden" on the Selective Service system. Whatever merit this argument may have had in the past has been undercut by the reduction in deferments and would be further diminished by more sensible provisions for conscientious objectors. At any rate, any inconvenience that such a basic reform might impose on the system is more than outweighed by the need to eliminate a serious injustice.

A committee of the New York Bar Association said two years ago in endorsing the Kennedy proposals: "There are few areas where strict standards of fairness and due process of law are more deserving of recognition than in the draft selection system, where matters of life and death are determined under a compulsory process which represent an uncharacteristic restraint on personal freedom and choice."

Mr. KENNEDY. Second, it is a myth not to think that we have thousands of cases now on various appeals because of mistakes or incorrect actions of local and appellate boards. The Justice Department had 23,000 cases submitted to them. The Department says that 60 percent or 80 percent of them will be dismissed for administrative reasons. The Department also indicated that in the last fiscal year they had 2,800 prosecutions and 1,800 dismissals. The primary reason for the dismissals was that the local boards were not following the rules and regulations of the Selective Service System.

This procedure by reducing the likelihood of misinterpretation at the local level would eliminate much of the burden on the courts of this country.

A part of the reason why we did not hear of individuals taking advantage of appellate procedures 7 years ago is that young people, for the most part, did not know about those opportunities. We have scores of examples of that ignorance. A boy 18½ years old was actually drafted, despite the law that no one under the age of 18 years and 6 months shall be inducted. There was a complete violation of the law in this case.

What about another boy who was 19 years old and who was in high school? We know that under the Selective Service System we permit boys to finish high school. Yet he was drafted out of high school, even though he was managing editor of the school paper and was to graduate that year. They told him at the draft board that there was nothing he could do about it, even though that violated the law itself.

So there are two individuals whose rights should have been protected.

I yield myself another 2 minutes.

All we are saying is that if we are going to extend the Selective Service System, then we are going to provide a procedure which not only is going to be fair to the individual but in which the young people will have some degree of confidence.

This amendment has the endorsement of a Committee of the American Bar Association, as the Senator from New York (Mr. JAVITS) and the Senator from Tennessee (Mr. BAKER) have pointed out.

This is really a bare bones kind of amendment. We know we provide many procedural guarantees to individuals who appear before various administrative agencies, and to young persons who may be arrested for the most petty crime. Those individuals are guaranteed at least some representation when they appear before a court. In any of the administrative agencies, whether a person has been accused of a tax violation or any other violation, he is entitled to due process rights.

All we are saying is that, if young people are going to be selected for service in the Armed Forces, many of whom may die in Southeast Asia, we owe them the protection of these basic rights.

Mr. BAKER. Mr. President, I yield myself 1 minute.

In further support of this measure, I respectfully submit that any argument that it will be expensive or inconvenient to implement into the draft system the right of counsel is not a sound argument, and it certainly would not be a sound argument in the view of an 18-, 19-, or 20-year-old boy who was going to be inducted.

It seems to me the argument that if we do this it is tantamount to changing the system is an eloquent argument against the draft. I shall vote to terminate the draft, but I suspect I shall lose. In the meantime, it seems to me the very least we can do is to assure that every person who appears before a draft board is entitled to confer with his attorney on the extent of his rights. We have not injected the right of attorney into the proceeding itself, although I think that would be highly desirable.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BAKER. Mr. President, I yield myself one-half minute.

I think the Senator from New York (Mr. JAVITS) is entirely correct when he says this is a bare bones protection to men facing induction under these circumstances. There will be no injustice to the draft boards, or the fine people who serve on them, and it certainly enhances the protection of the rights of the young people about to be inducted.

Mr. JAVITS. Mr. President, I yield myself 1 minute. I am brought to my feet because my position is juxtaposed to that of the Senator from Tennessee. I shall vote for the bill. I feel the justification I have in voting for the bill is in assuring that those who are inducted under the bill shall have a fair break.

The Senator from North Carolina (Mr. ERVIN) is a fine lawyer. He says a quorum must mean a majority, but I do not agree. The President, by rules and regulations can change that. I hope the Senator from Massachusetts will contradict me if that is not the fact, and in any event we expect the conferees to make that clear when they come out with their version of the amendment. This was defeated before, but we have made substantial changes in the amendment; the major change is the fact that we have taken into consideration the delays and have placed the whole power in the hands of the President.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I yield myself 1 minute.

I never heard it seriously argued before, although I respect the Senator from New York very much, that rules and regulations could contradict the very words of the statute or substantially change, or even moderately change, the mandates of the statutes themselves.

Sometimes we grant authority here in a very broad way with reference to a massive department of the Government, and let its rules and regulations become law of themselves, but we are not doing that with this amendment. We are using those words, and then we go on and write law, and those rules and regulations cannot possibly modify in any substantial or even moderate way what we have written out here as the basic requirements imposed on these voluntary boards.

I hope the amendment will be rejected.

The PRESIDING OFFICER (Mr. NELSON). 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 legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Virginia (Mr. BYRD), the Senator from Missouri (Mr. EAGLETON), the Senator from Montana (Mr. METCALF), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senators from Ohio (Mr. TAFT and Mr. SAXBE) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent by leave of the Senate on official business.

The Senator from Utah (Mr. BENNETT), the Senators from Kentucky (Mr. COOPER and Mr. COOK) and the Senator from Vermont (Mr. PROUTY) are detained on official business.

If present and voting, the Senator from Utah (Mr. BENNETT), and the Senator from South Dakota (Mr. MUNDT) would each vote "nay."

On this vote, the Senator from Massachusetts (Mr. BROOKE) is paired with the Senator from Pennsylvania (Mr. SCOTT). If present and voting, the Senator from Massachusetts would vote "yea" and the Senator from Pennsylvania would vote "nay."

The result was announced—yeas 46, nays 41, as follows:

[No. 124 Leg.]

YEAS—46

Anderson	Hollings	Muskie
Baker	Hughes	Nelson
Bayh	Humphrey	Packwood
Bentsen	Inouye	Pastore
Burdick	Jackson	Pell
Case	Javits	Percy
Chiles	Kennedy	Proxmire
Church	Magnuson	Randolph
Cranston	Mansfield	Schweiker
Fulbright	Mathias	Stevens
Gambrell	McGee	Stevenson
Gravel	McGovern	Symington
Harris	McIntyre	Tunney
Hart	Mondale	Williams
Hartke	Montoya	
Hatfield	Moss	

NAYS—41

Aiken	Dominick	McClellan
Allen	Eastland	Miller
Allott	Ellender	Pearson
Beall	Ervin	Roth
Bellmon	Fannin	Smith
Bible	Fong	Sparkman
Boggs	Goldwater	Spong
Brock	Griffin	Stennis
Buckley	Gurney	Talmadge
Byrd, W. Va.	Hansen	Thurmond
Cannon	Hruska	Tower
Cotton	Jordan, N.C.	Weicker
Curtis	Jordan, Idaho	Young
Dole	Long	

NOT VOTING—13

Bennett	Eagleton	Saxbe
Brooke	Metcalf	Scott
Byrd, Va.	Mundt	Taft
Cook	Prouty	
Cooper	Ribicoff	

So Mr. KENNEDY'S amendment (No. 225) was agreed to.

Mr. KENNEDY. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. JAVITS. I move to lay that motion on the table.

The motion was agreed to.

Mr. PEARSON. Mr. President, during the past 2 years, the United States Senate has voted on at least eight separate proposals intended to bring an end to our involvement in the Indochina war. The continuing national debate has made it increasingly clear that a majority of Americans are weary of the conflict and share a genuine desire to terminate it and to negotiate an agreement to free the U.S. prisoners held by North Vietnam.

In my judgment, Mr. President, the President has been sincere in his efforts to withdraw our troops and allow the South Vietnamese a measure of time to develop their own military capabilities. Furthermore, I have been assured by the highest administration officials that President Nixon fully intends to withdraw all U.S. troops from Vietnam. For these reasons, I have supported the President and his plan to end the war. However, I do feel that in voting against the various "date certain" proposals, the Senate has not been able to express positively its very sincere and urgent desire to see the war ended and all U.S. prisoners released.

Consequently, I was willing to support an amendment, offered by some of my colleagues, which declared that the policy of the United States would be to terminate, at the earliest possible date, all U.S. military operations in Indochina. In addition, it would be the policy of the United States to negotiate an agreement with North Vietnam which would provide for a series of phased and rapid

withdrawals of U.S. troops from Indochina in exchange for a corresponding series of phased releases of U.S. prisoners of war. Finally, these releases would be completed no later than 9 months after agreement on negotiations had been reached.

Mr. President, I believe that this amendment expresses the will of the majority of Americans, and that it is in accordance with the best interests of the Nation. It is my hope that passage of this amendment will help heal the divisiveness and anguish which has plagued this Nation for so many years.

AMENDMENT NO. 229

Mr. HUMPHREY. Mr. President, I call up my amendment No. 229 and ask that it be stated.

The PRESIDING OFFICER (Mr. WEICKER). The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

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 THE ASSIGNMENT OF INDUCTEES TO COMBAT AREAS

"SEC. 22. Notwithstanding any other provision of law, persons inducted into the Armed Forces under the provisions of this Act may not be assigned to duty in any combat area outside the United States after June 30, 1972, unless (1) they volunteer in writing for assignment to duty in such combat area, or (2) the President determines that it is essential to the national security of the United States, to assign such persons to duty in any such area and notifies the Congress of that determination, and the justification therefor, within forty-eight hours after the making of such determination. The authority of the President under clause (2) above to assign such persons to duty in any combat area shall expire thirty days after notification to the Congress of such determination unless within such thirty days the Congress authorizes the President by law to continue the assignment of such persons to such combat areas. Upon expiration of such authority the persons previously assigned (and still serving) under the authority of clause (2) above to such combat area may be retained during their normal term of service if the President determines that such assignment is necessary for the protection of the lives and safety of American troops in such combat zones."

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, at the time this amendment was introduced the Senator from California (Mr. CRANSTON) and I placed in the RECORD a brief explanation of its purpose.

Let me once again remind the Senate that the crucial issue which we have been debating here these past weeks, indeed, months, is the power of Congress to assume its rightful role under the Constitution in the conduct of foreign affairs and the formulation and implementation measures affecting our national security.

It is my judgment that while we may not have planned it that way, the entire Congress is now engaged in an historic debate and discussion as to the proper relationship between Congress and the President in matters of national security.

The tragic war in Southeast Asia has precipitated this question for immediate consideration.

Following World War II, there was a tendency on the part of Congress to place almost unlimited authority in the hands of the President in the conduct not only of foreign affairs, but also in the use of the Armed Forces of the United States.

We were, of course, mindful of the sudden and unprovoked attacks which had taken place in Europe in the late 1930's just before the beginning of World War II. We were also mindful of the attack upon Pearl Harbor and the attack of the North Koreans across the border of the 38th Parallel in Korea. Because of these experiences, Congress tended, year after year, to give ever wider latitude to the President in the use of the Armed Forces. The rationale was that we needed to be able to respond quickly, that the American Nation had a unique responsibility for maintaining the peace, that we were a strong Nation and one of the few that had come out of World War II stronger than when we went in.

Then Congress continued to give greater latitude or authority to the President, always with the feeling that there was a need on the part of the President to respond quickly and promptly in case of a threat to what we considered to be our vital interests.

Like many other things, this power tended to grow and it tended to erode the constitutional powers and responsibilities of Congress.

So, here we are now, in a heated discussion—and I hope that it will also shed some light as well as heat—on the whole subject of the relationship of the Presidency to Congress in what we call the national security powers or the war-making powers as outlined in article I, section 8 of the Constitution.

The article in the Constitution clearly provides that Congress shall have the power to declare war, to raise and support armies, to provide and maintain a navy, to make the rules for the Government and regulation of the land and naval forces, and to provide for the calling up of an organized militia, and so forth.

I doubt that anyone questions that these powers are granted under the Constitution. The problem has been, rather, on the interpretation of those provisions.

The general interpretation in most recent years has been that Congress could provide for the raising of armies, but the President would decide entirely as to how they would be used.

Once we come to the matter of conscription or selective service which, by the way, did not exist at the time the Constitution was written we have new considerations to ponder and evaluate.

Mr. President, Thomas Jefferson gave us an indication of what the presidential powers might be during the period of the dispute with Spain in 1805.

He told Congress in these words:

Considering that Congress alone is constitutionally invested with the power of changing position from peace to war, I thought it my duty to await their authority before using force in any degree which could be avoided.

Now, of course, that admonition by Thomas Jefferson has been lost, in a sense, with the passage of history.

I am not here to say that times have not changed, because surely they have. We have learned in this century that nations do not always declare war, or issue a formal declaration of war, before their armies are let loose upon their neighbors.

To the contrary, we have seen the sudden and preemptive attack as a part of military policy or a policy of aggression, in many instances. It is because of what we learned and the experiences we have had, that I believe we have gone "overboard" in permitting presidential powers to be almost absolute when it comes to the use of the Armed Forces—not merely Armed Forces made up of volunteers, but also some branches of our Armed Forces whose ranks are in large measure, filled by conscripts.

I address the Senate today on this whole subject of the inductee, and the assignment of that man to military combat duty.

It is important to state, therefore, that the proposed amendment offered by the Senator from California (Mr. CRANSTON) and myself does not refer to enlisted men who are volunteers. And I should also add that it does not refer to those currently serving in the Armed Forces.

There have been amendments up for consideration on this matter. Those amendments have been disposed of, regrettably, in a negative fashion.

The intent of this legislation is to prohibit the futher use of inductees into the Armed Forces for combat unless the President determines that such persons should be assigned to a combat area in the national interest.

The President of the United States does have a responsibility for our security. He is the Commander in Chief and, therefore, we do not wish to tie his hands as he weighs his decisions and responsibilities.

The amendment provides that after June 30, 1972, an inductee into the Armed Forces could not be sent into a combat zone outside of the United States unless he volunteers in writing for such duties, or unless the President of the United States determines it is in the national security to make such assignments. Then, if the President makes such determination, under the language of this amendment, the President would have to notify and justify that action of his to the Congress within 48 hours. The President's authority to assign inductees to combat zones would expire within 30 days unless Congress authorizes by law or by resolution the continuation of such actions.

If the President declares that inductees located in a combat area at the outbreak of military hostilities are necessary to protect the lives and safety of the men in the area, such inductees may be retained during their normal term of service, but no longer.

If the situation developed where some inductees were in an area that turned out to be a combat zone we would not want transport planes to be sent in to lift those inductees out and separate

them from the others who were there. They would have to remain there during a period of time. But before we escalated, through the use of conscription, or in other words, before we added additional manpower through the Selective Service System, before we added combat manpower by conscription, the President would have to come before Congress to make a case. He would have to be able to convince Congress that the inductees or conscriptees were needed for our national security.

I think this is exactly what the bone of contention has been about in Vietnam. The argument with the executive branch has been that we started out with just a few people in Vietnam and quickly escalated to the level of one-half million men.

We can take the case all the way back to the days of the military advisory group—MAG—next the Special Forces and then the first pilots and marines, and pretty soon, Mr. President, the policy of large-scale involvement that was finally adopted. I happen to be one who believes that it was not by accident. It was a policy that was considered and adopted. That policy then began to require more manpower, and the manpower was taken out of the Selective Service without coming to Congress to justify the use of the additional manpower.

This amendment, Mr. President, would put a halt to that practice. It would mean, in other words, that if additional inductees were to be sent to a combat area, the Congress would have to legislate and authorize it at the time. An escalation or the use of increased manpower without definite legislative authority would not be permitted.

A number of Senators have introduced amendments relating to this fundamental constitutional issue. The Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. EAGLETON), and the Senator from New York (Mr. JAVITS) have taken an active interest in this matter and are to be congratulated on the foresight which they have shown on the subject.

This amendment relates to the President's power to use conscripts for purposes of national security, in combat areas.

Previously in the Senate, the Senator from Wisconsin (Mr. NELSON) and I introduced an amendment which would have prohibited the nonvoluntary use of draftees in combat units in Vietnam after December 31, 1971. That amendment was directed primarily at the ongoing struggle in Indochina.

Frankly, I think this is the best amendment I have had a chance to vote for. I deeply regret that the Senate did not see fit to accept it, because it would have helped to defuse much of the bitterness in this country, particularly among our young people.

The purpose of the Nelson-Humphrey amendment was to say that men called up under the Selective Service would not be assigned to a combat zone in Vietnam after December 31, 1971. This would have surely increased the pace of withdrawal. It would not have jeopardized our position or the safety of our remaining men in Vietnam.

I think it would have again restored some constitutional balance between the executive branch and the Congress.

The pending amendment, amendment No. 229, to which we are now directing our attention relates specifically to combat units in Vietnam, and generally to any combat area. The date of June 30, 1972, is less restrictive than December 31, 1971. The Mansfield amendment, which the Senate just passed, expresses the desire to end our involvement in Indochina, at least by June 30, 1972.

Amendment No. 229 is, therefore, tied in with the sense of the Senate as adopted in the Mansfield amendment. In other words, if we are going to be out of Vietnam by June 30, 1972, which this Senate urged as a matter of policy decision by the Senate of the United States, we ought not to assign into combat areas inductees against their will.

Furthermore, since a major aspect of my legislation is to allow enough time to have increased volunteers in the Armed Forces, I believe June 1972 is a feasible date for the accomplishment of this goal. Also, my amendment is related to basic congressional war powers rather than just the case of Indochina or any one military involvement.

We in Congress advocate the maintenance of adequate military strength. There is no attempt here being made to unilaterally disarm our country. We know our country must be able to respond to threats to its security. We know in the troubled and ugly world in which we live it is necessary for us at this time to have a military force. We call it a force for deterrence. The hope is that our strength will act as a protection of the peace.

Our military makes quite a point of what they must have in the way of power to maintain peace. This amendment would do nothing to diminish that power.

All this amendment would do would be to say that if the President assigns inductees into a combat area or seeks to maintain inductees in a combat area he must come to Congress at an appropriate time. First, he must notify within 48 hours that inductees are being sent into a combat area or are present in a combat area. Then Congress has 30 days to decide if inductees can be sent into a combat area or not sent to a combat area.

In other words, what it does is to restore some balance relating to the protection of this Republic between the Presidency on the one hand and Congress on the other hand.

Obviously, this amendment does not deal with the total picture of the constitutional crisis that we have in this country. This crisis is not the work of any one President, or the product of any one Congress. It has gradually developed, almost in direct relationship to the crisis in Indochina.

The almost unlimited power of the Presidency enabled Presidents to commit this country to a total manpower policy, with selective service at the base. Congress permitted this to happen. Congress did so, not by accident, or even by default. It did so by decision. I think the time is at hand for Congress to take a look at that decision.

One of the lessons of Vietnam is that we have seen how we can overextend ourselves and become involved beyond the legitimate interests of this country. One of the lessons is that we can see how Presidents, not one President, but several Presidents, can design policy and implement that policy which, unless there is some limitation set by Congress, can draw upon the financial, fiscal, and manpower resources of this country, almost to an unlimited amount.

Fortunately, Congress is now taking a good hard look at this situation and saying it is time to deescalate, that it is time to trim the almost unlimited authority of the President.

But this amendment would not do this irresponsibly. It requires the President to consult with Congress, and that Congress not only be consulted, but that Congress also give its advice and consent.

I know of no provision of the Constitution that requires consultation, but I know of the words in the Constitution relating to foreign policy and national security where the President must seek the advice and consent of Congress, the advice and consent particularly of the Senate. This amendment is an advice and consent amendment in the framework of our Constitution.

The amendment says to the President, "Mr. President, if you take an action that you believe is in the national interest, if you believe you have to assign American forces, because you believe the national security is threatened, we do not deny you that right because as Commander in Chief you are required to protect the public." But we do say, "Before you become totally involved, before decisions are beyond recall, before you have precipitated this country into a position where it cannot have an opportunity for options, we are asking that Congress be brought in to determine those options and to make a judgment. The Constitution does say beyond a shadow of a doubt that the powers of Congress include, under article I, section 8, the power to declare war, to raise and support armies, to provide and maintain a navy, to make rules for the Government and regulation of the land and naval forces and so forth."

So I would hope our distinguished friend and colleague, the Senator from Mississippi who, by the way, has so ably handled this very difficult measure would accept this amendment. I wish to compliment him. Even though on a number of occasions I have cast my vote contrary to the present bill, nevertheless, I think he has exhibited not only a great understanding of the issues before us, but he has also demonstrated the qualities of a fine Senator in encouraging debate, not only permitting but encouraging the widest discussion and most meticulous discussion of these controversial matters.

Mr. President, in conclusion we should note that aside from Indochina, the major potential combat area where our

48-059 O - 72 - pt. 17 - 7

troops are stationed is in Europe. Here we have a commitment—at least I would hope we have one—by the President, to begin serious negotiations on mutual balanced force reduction. At the same time, there is a current feeling that some reductions can be made before a formal agreement on mutual balanced force reductions is made. Thus, we can expect substantial force reductions from Europe as well as Indochina by July 1972. There would, therefore, be less need for large draft calls and we could expect the need to diminish.

Naturally, we have to plan for contingencies. I know this is a subject of considerable discussion today, but I hope our Government, despite recent revelations, would have the good sense to look ahead at what might happen to us.

There are a number of serious questions we will have to ask ourselves in the coming months: Whether or not a government can plan for contingencies; whether or not there can be any privacy in Government; whether or not we can conduct foreign policy and serious and sensible negotiations before the total view, the day-by-day and hour-by-hour view of the public. I am not drawing conclusions but asking questions which I plan to ask in much more detail early next month, because as we approach the crisis between the President and Congress on national security we have serious questions to ask for which we need answers.

We are dealing with the life and death of this country and its whole future; we are dealing with the spirit of this Nation as well as the physical and human resources of this country. And we must have some plans.

We must plan for contingencies where armed forces would be required to take a combat role affecting our national security.

If the Defense Department figures of 1971 are accurate, our total end strength would be more than sufficient to meet any outbreak of hostilities which require immediate action without the draft.

That is the issue. Do we have enough men in the military service without the draft to meet any immediate danger or emergency? This amendment goes even beyond that. It states that the President may indeed assign men or at least make the decision to assign inductees to the combat area, but he must come to Congress in 48 hours and justify his decision.

And within 30 days the Congress of the United States must give him an answer one way or the other.

If you look at the manpower projections of the Department of Defense, you will find that the number that will be needed under Selective Service will be minimal, and if we can wind down the war in Vietnam, as we hope and pray it will be, the number of draftees needed will be zero.

At a time when military and foreign policy changes point out the change in our manpower defense requirements, I think it most appropriate and responsible that we take one more step in the direction of a volunteer army. The discussion which has taken place in the Senate on the implementation of a volunteer army, the analysis of the Gates Commission, and other reports prove very solidly that the need for draftees in combat is nonexistent. They went so far as to say that a total volunteer force could be implemented at any time. Accepting the Senate's and the President's reluctance to move too quickly in this direction, we are, therefore, proposing a much more limited version of the volunteer idea. We propose that we have volunteers for combat areas by July 1972. Right now our ground combat accession requirements for fiscal year 1972 are computed to be 75,000. According to the DOD estimates, 57,600 men are true volunteers.

Surely, with the added pay incentives in the amendment of the Senator from Colorado which the Senate has voted onto the original draft bill, the accession rate can be expected to remain the same and possibly rise while our requirements, as I have already pointed out, can be expected to diminish by July 1972.

The requirement to make the President report to the Congress within 48 hours after the President determines the need of using draftees in combat areas is one which the President should be required to do in any case.

May I say that if that had been the case in the past, some of the trouble we have with us today would not be with us, or if it was, Congress would have shared in it.

If the Congress is called upon to institute the draft, surely it should be called upon to approve what use is made of men who are drafted, especially when their use affects the U.S. national security.

The President is merely asked to report to Congress on the reasons for his determination and the Congress will then be able to decide whether his authority for the use of draftees, not enlisted men, in combat should be continued.

Even if after 30 days Congress did not find sufficient reason for the use of draftees, the President would still have the authority to maintain those draftees already assigned to the combat area at the time of an outbreak in military hostilities until their normal term of service expired. The intent here is to minimize the logistical difficulty of pulling out troops in the middle of combat. At the same time the injustice involved of leaving those who did not volunteer to be assigned to a combat area in the combat zone would be minimized since their right to be removed from the zone would be guaranteed upon the expiration of their term of service.

What we hope to do by this amendment is twofold:

First, to move to a volunteer army within the timetable set by the President; and

Second, to guarantee the constitutional right of Congress to control the military actions of the President.

I believe this is sound public policy.

I want to say that we have attempted in this amendment to consolidate some of the very worthwhile suggestions that have been made by distinguished Members of this body, Senators STENNIS, JAVITS, and EAGLETON, just to name a few.

We have also tried to take the purpose of the Nelson-Humphrey amendment, to see that draftees no longer would be used for combat purposes in Vietnam. We have taken those general thoughts and put them in a time frame which we believe is responsible and could be helpful in the situation—a time frame; namely, that this amendment would take effect after June 30, 1972.

Mr. President, after June 30, 1972, unless we have been misled, we should have very few, and hopefully, no troops in Indochina.

Second, we should have some reduction of our forces in Europe. I believe it was the desire of the Senate that those reductions be made; it was only a question of how. We should be very much on the road toward getting the military manpower of this country at a reasonable level.

I believe there has been no justification made even for the present manpower levels. There have been some moving and telling arguments made about the waste of manpower resources in the military.

Therefore, this amendment is an amendment which is essential to the constitutional provision of the relationship of the President to the Congress in the use of manpower, called up by the action of the Congress under selective service.

It is the view of the sponsors of the amendment that if Congress calls up men under selective service for involuntary service, before the President can commit them to combat over any extended period of time, and thereby enter into an escalation both of combat and the use of manpower, that this Congress shall have the final word. It is the Congress which should determine whether or not the manpower that it has authorized, that it has called up under law under terms of the Selective Service Act, shall be used for combat or whether they shall not be used for combat.

I think this falls completely within the intent and the purpose of the Constitution of the United States and, furthermore, I believe that if this amendment is adopted it will be a significant step toward redressing the imbalance which exists today between the powers of the President and the powers of the Congress in the matter of national security.

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

Mr. HUMPHREY. I yield.

Mr. STENNIS. I refer to line 7, page 1, of the Senator's amendment, wherein these words are used: "any combat area outside the United States."

Mr. HUMPHREY. Yes.

Mr. STENNIS. I refer especially to, "any combat area." Does that include any area where combat is going on, say, in some other country, and I use the Jordanian incident of not too long ago. We had some nationals there. Is that included in the Senator's amendment? I would say it would be.

Mr. HUMPHREY. Yes; I would say the proper interpretation would be that it would be included, but that language does not prohibit the President from sending in what we call enlisted manpower.

Mr. STENNIS. I understand. I wanted

to get a definition of that phrase "any combat area."

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

Mr. STENNIS. May I finish?

Mr. GOLDWATER. I wanted to ask a question on that point.

Mr. STENNIS. The Senator from Minnesota has the floor.

Mr. HUMPHREY. I yield to the Senator from Arizona.

Mr. GOLDWATER. I would like to amplify the question asked by the Senator from Mississippi. Would the Senator's amendment, for example, include the 6th Fleet in the Mediterranean?

Mr. HUMPHREY. No, I would not think it would.

Mr. GOLDWATER. All right. Let us look at the combat area in the far reaches of the Mediterranean, where the Israelis and the Egyptians are concerned.

Mr. HUMPHREY. Yes; in the immediate area where hostile forces are deployed, I would call that a combat area.

Mr. GOLDWATER. In spite of the promises made to Israel by this country and in spite of the fact that we do not have a treaty, the President would have to come to Congress.

Mr. HUMPHREY. May I say to the Senator that, of course, this is one of the problems we are going to have to face as we begin to ask ourselves what plans this country has for certain areas like the Mideast.

For example, this particular amendment would provide that before any drafted manpower could be assigned to a combat role in a combat area such as in the Mideast, the President of the United States would have to come to the Congress of the United States to get the authority to do it. In other words, I think this is an amendment that does look to the future. I think it does put up a warning sign because, in my book, the most dangerous area in the world is not in Southeast Asia; the area of the world which might well result in a conflagration is in the Middle East—North Africa and the Mediterranean area.

But before we would assign forces for combat purposes in a combat area—the President of the United States would have to come back to Congress within the 48 hours provided in the amendment, to get his authority to do so.

Mr. GOLDWATER. I might point out that this amendment does not do that. It just says "may not be assigned to duty." It does not refer to combat duty or a combat role.

My interpretation of the amendment, if enacted, would be that the 6th Fleet would have to vacate the Mediterranean.

Mr. HUMPHREY. I do not believe there is any cause for concern. There are virtually no draftees in the 6th Fleet. There are virtually no draftees in the Navy.

Mr. GOLDWATER. But there are draftees.

Mr. HUMPHREY. But virtually none, and, with the pay increases we have provided, I do not think the Navy will require draftees hereafter for its purposes.

Mr. GOLDWATER. The same might be said about the Air Force. The Air Force includes some draftees. I am afraid that the enactment of this amendment would require us to withdraw any help from Israel.

Mr. HUMPHREY. Not a bit, but it would require that before forces of the United States are permitted into that area for combat purposes, the President would have to come here, to Congress, for authority.

Mr. GOLDWATER. The Senator does not spell that out. He merely says "assigned to duty." The duty could be 100 miles behind the lines, in a noncombat role. I think the Senator would have to spell that out, and say "in any combat role."

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

Mr. HUMPHREY. I yield to my colleague from California.

Mr. CRANSTON. I would like to point out that it was totally noncombat purposes, originally, that drew us into the conflict in Vietnam, because our forces were deployed in a combat zone. That was done without the knowledge or consent of Congress, and revelations in the press of the last few days show that it was done secretly and purposely, with intent, despite the protestations to the contrary in the 1964 campaign for the Presidency, of which the Senator from Arizona is well aware.

This amendment was deliberately drawn to prevent that sort of action, and deliberately not drawn to specify "for combat purposes in a combat zone."

Mr. GOLDWATER. I think the difference should be made clear on this, because, as it is written now, I do not think we are going to correct the mistakes we have made in the past by sending in people as advisers and assigning them to forward posts. If you are not permitting them to go into combat unless they volunteer, I think you have to spell it out, and this amendment does not do that.

Mr. HUMPHREY. The principle upon which this amendment is based is that the volunteer forces, by June 30, 1972, will be more than adequate for the military manpower levels of this country unless we find ourselves in a situation that deeply or directly affects our national security. And if that is the case, and the President determines that he must send others than enlistees into a combat area, he must come to Congress and say, after the first 48 hours, "Look, Members of Congress, I have to send manpower into a combat area, and before I do so, I want you to know what I am going to do, and I ask your authority."

The whole purpose of this proposal is to profit by what we have learned from the mistakes of history. That is what it is all about. I would hope, after studying what has happened in these postwar years since 1945, without trying to lay blame or find scapegoats, one thing we would have learned from our mistakes is the importance of consultation by the President with Congress, and not only consultation, but seeking direct authorization, one way or another.

Mr. President, this is a post-Vietnam amendment. This is an amendment that tells us things happened in Southeast Asia that should not have happened. Many Members of Congress have said they did not know what was happening. All right; if we did not know what was happening, and it should not have happened, let us put a stop to it now. We cannot relieve what took place. There is an awful lot of argument going on about what happened in 1966. I would like to have a little argument about what could go on in 1976, and some affirmative action taken now to prevent it from happening. This amendment ties directly with the congressional responsibility for national security.

Mr. STENNIS and Mr. PASTORE addressed the Chair.

Mr. HUMPHREY. I yield first to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I ask the Senator, what if Congress does not act within the 48 hours? What happens?

Mr. HUMPHREY. Within 48 hours the President must notify Congress.

Mr. PASTORE. And how long, then, does Congress have?

Mr. HUMPHREY. Thirty days.

Mr. PASTORE. What if it does not act?

Mr. HUMPHREY. If Congress does not act within 30 days, then there is no authorization for the President to use such combat forces, and it would be a violation of the law for him to put inductees into the combat area.

I yield now to the Senator from Mississippi.

Mr. STENNIS. Mr. President, if the Senator has finished, I was going to take the floor. He has answered my question.

Mr. HUMPHREY. Mr. President, I yield the floor.

Mr. STENNIS. Mr. President, I think this is a very vital amendment to almost all of our services, and the units within those services.

For instances, we have used inductees as marines several times since World War II. I do not think we have any now that are inductees, but they are, or many of them are, members of the companies of our naval ships at sea, and they are the men we send to the trouble spots.

Think of Lebanon a few years ago. Some of the marines in that company would have been inductees, if we were using them at all, and some would have been volunteers.

Under this amendment, before the President could send in that unit, he would have to pull out those who happen to be inductees. The same thing would be true with the Army, because that is where we have the most inductees. We could not send as small a unit as a company to any kind of place that could be called a combat area unless we first stripped them of those who were inductees, and then very likely we would not have a unit left, because we would have taken out some of our key men.

This deals with individuals, and it is just impossible—that is what it is, just impossible—to have the units of these services left in a position where we would have to strip them down before we could act.

This amendment, with all deference, was introduced yesterday at noon. There was no copy of it available for me, at least, this morning, a little after 8 o'clock, that we could find. I do not blame the Senator from Minnesota for that; I am talking about the enormity of the application of the amendment, with such little notice. I remember asking someone to call the Senator's office, or go around there, and see if we could get a copy for a few fleeting minutes before 10 o'clock, to look at it. I have not had a chance to have one single word from the services themselves as to how it would affect them. I do not need their counsel and advice as to how it would affect them.

In my opinion, it is just almost impossible to live under this amendment, if it is going to be taken seriously.

Let me give another illustration: The Jordanian emergency we had here just a year or so ago. There was a carrier or other vessel out there just a few miles away. The doctors on it were under the draft; and under the provisions of this amendment, we could not even send a doctor in there to aid our own people, such as those American nationals who were there in Greece.

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

Mr. STENNIS. I yield.

Mr. HUMPHREY. I asked the Senator from Mississippi to yield because I know of his eminent fairness, and I know he would not want the RECORD to contain misinformation on this point. But, to use his example, if an aircraft carrier in the 6th Fleet were in a very dangerous and troubled area in the Middle East, and the said aircraft carrier had inductees on it now, this amendment would not prevent the use of those inductees. What the amendment says is that after June 30, 1972, even those left there are not touched, but we do say to the President, "If you are going to send in 10,000, 5,000, or 2,000 more inductees, then you have to come back to Congress."

But let me make it clear that if that carrier, out of a manpower component, let us say, of 5,000, had on there presently a thousand inductees, those thousand would not be removed. This amendment specifically states that those thousand would remain in the area. At the end of their term, however, they would not be required to stay. This would mean the Government had plenty of time for its replacements.

In a sense, we do not cripple the power of the President here. For example, if a Marine unit had to be used which had 90-percent enlistees and 10-percent draftees between June 30, 1972, or thereafter, we do not say that they would have to take out the 10 percent. On the contrary, it says that if they are going to add any more, they would not add any more inductees without coming back to Congress.

So it does not denude our Military Establishment.

I say to the Senator from Arizona that with respect to the Middle East situation now, where the 6th Fleet is, it has no effect on that operation, with one exception: If there were a breakout of hostilities and we needed more manpower, before inductees could be sent into that area, the President would have to come back to Congress to get it; that is, additional inductees, not inductees presently in the Armed Forces.

Mr. STENNIS. Mr. President, I think the illustration I gave still applies. I suppose the Senator is referring to language beginning on line 12, page 2. There is an addendum talking about such authority. It is not clear which authority the Senator is speaking about—the word "authority" on line 11 or the "authority" on line 7. It is just another illustration.

This matter has been put together in good faith, but it is absolutely impossible to tell exactly what it means or what will be the application of it. When we put law in hard language, what we say on the floor does not count for anything as to what it means. It is only when there is serious doubt. There is more than doubt here.

I say, on my own responsibility, that this is the most crippling amendment that could be conceived for the units of our military anywhere.

Presently, the Air Force consists of volunteers. The draft induced a large number of them, but they are volunteers. So I would not think that it would apply. I think that the military would be so cramped and curtailed and restrained that it would be highly uncertain as to what the units could do and what they were eligible for. It would be impossible to plan a quick military action. It just could not happen.

We can imagine many situations. They might be considered extreme. But if this amendment should become effective on June 30, what would be done about having units, say, in a Pearl Harbor situation, where some of the units were filled with men who had been inducted. Pearl Harbor now is within one of the States of the United States, but I am referring to some area outside the United States, with an attack such as the one on Pearl Harbor.

We just cannot work out this situation. If they are not going to be able to use these men, they should not be put in the military, in responsible positions. That is my argument.

Anyone who is going to vote for the bill ought to vote against this amendment, because the amendment would largely nullify the effectiveness of the bill for the last year of its 2-year life.

Other Senators wish to speak. I am going to yield at this time.

I believe this amendment would be permanent law. Does the Senator intend that the amendment be permanent law?

Mr. HUMPHREY. Indeed. It would be an addition to the Selective Service Act.

Mr. STENNIS. The act would expire in 2 years.

Mr. HUMPHREY. It would apply to the Selective Service Act.

Mr. STENNIS. I believe it is written in such a way as to be permanent law and that it would not expire when the power of induction applied. But that is a question that shows how uncertain it is.

Another feature is this: Consider the situation of a young fellow who came in through this act and later became a sergeant or a lieutenant and stayed in the service several years. What about him? He was inducted under the authority of this law. Would he be permitted to go to a combat zone? That is highly uncertain. I think that a literal, strict interpretation would rule him out of being eligible.

I use this as an illustration that this is a matter that should be given the most analytical examination by military men who know what it means.

I yield the floor.

Mr. HUMPHREY. Mr. President, just to try to give some balance to this record, let me say, most respectfully, the following to the Senator from Mississippi:

No. 1, this in no way cripples the President's capacity or ability to respond to a threat to our national security.

Let us take the situation as of today or, let us say, 6 months from now. Let us assume that this act is extended and that inductees are in the military units of the United States. This part of the act does not become effective until June 30, 1972. There is no change in the powers of the President or in what the President considers to be his powers or how he has used those powers.

After June 30, 1972, if there is an emergency in which the Armed Forces of the United States are called upon by the President to participate, to move into combat, and if inductees are in some of the units sent into combat, it does not mean that those inductees are lifted out and sent home. It simply means that before new inductees may be called upon—if the war escalates—to be put into combat, the President will come to Congress and ask for the authority.

In other words, if a regimental unit in which there were a thousand inductees, were sent into a particular area, those thousand inductees would not be separated from the service. They would be used as the language of this amendment specifically states:

> . . . The authority of the President . . . to assign such persons to duty in any combat area shall expire thirty days after notification to the Congress of such determination unless within such thirty days the Congress authorizes the President by law to continue the assignment of such persons to such combat area. Upon expiration of such authority the persons previously assigned (and still serving) under the authority of clause (2) above to such combat area may be retained during their normal term of service if the President determines that such assignment is necessary for the protection of the lives and safety of American troops in such combat zones.

So it would not cripple the President's authority. It would give Congress some authority if the use of manpower is going to be escalated or if we become involved in a situation in which the war itself escalates.

I submit that that is what the argument has been all along here: whether or not the President of the United States is going to be given unlimited authority to commit manpower under selective

service, without coming back to Congress as to how that manpower will be used. But this amendment is drawn from some experience. I do not say we should cripple the President's power. I do not think we should deny the President the opportunity to fulfill his obligation under the Constitution as Commander in Chief and as one of the guardians of our safety. I think the President must have the resources and the troops, and under this amendment, he does have them. What he does not have, however, is the unlimited right to continue to draw on selective service for men in combat areas and combat activity. He has to come back to Congress if he seeks to do that, to seek the authority.

One other question was raised: What about a man who is inducted and decides to stay in and becomes a sergeant or a captain? That is a voluntary action on his part. He is entitled to stay in, and he is subject to the command of the Commander in Chief. This amendment does not apply to him at all.

What about a situation such as Pearl Harbor? It took only 6 hours for Congress to declare war. It did not take 30 days. If the national interest of this country or its national security is severely threatened, Congress is not going to turn its back on the request of the President.

What the amendment really says is that before we become deeply involved in what may become an escalating struggle, Congress shall not only be asked to come down to the White House—as we have in the past—to be talked to. Look at the trouble that has been caused about the Gulf of Tonkin resolution, that we did not know enough about. This amendment says that before he moves draftees into a combat area, or after he has put those men into a combat activity, the President will come back to Congress.

I think that this is a sensible amendment. I do not think it cripples anyone. It gives the public the assurance that we will not become involved in a struggle that Congress says it does not know enough about, that we will have the authority vested in Congress for the use of manpower.

Mr. GOLDWATER. Mr. President, I yield myself such time as I may need out of my 1 hour.

The PRESIDING OFFICER (Mr. PEARSON). The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, this question that the Senator from Minnesota is addressing himself to is one that is beginning to divide the country. It is a question that is understandable and I am in sympathy with what the Senator is trying to do; but for the life of me, I cannot believe that, by legislation, we can change the Constitution. In my opinion, this is supported by a great many Supreme Court decisions. This approach would therefore be unconstitutional and the President would not have to pay any attention to it.

I have proposed to the Committee on Foreign Relations, even though I would vote against such an amendment, that an attempt be made to frame an amendment that would be a fence around the war powers of the President. I would hate to be given the job of forming the words of such an amendment, frankly. I believe that our Founding Fathers were very wise when they gave up on the idea of Congress having the war making powers and confined it in the hands of one man.

I would much rather put my faith and confidence in one man in these situations, rather than in over 500 men representing the whole, broad spectrum of America with all our national interests involved.

That is my constitutional stand on this. As I say, I placed a study in the RECORD on April 26, 1971, beginning on page 11913, which gives a complete history and record for any interested Senator, which indicates that the Supreme Court has constantly ruled that the Commander in Chief power of the President is complete and it cannot be infringed upon by Congress; leaving the question, of course, whether we want to amend the Constitution.

One thing I oppose in the language of the amendment and opposed in the language of other bills on this subject which have been introduced in order to accomplish the same thing, is the 30-day clause.

If I were the commanding officer of the enemy, I would like nothing better than to have open debate on the floor of the House and Senate about whether we were going to send men into combat, whether enlisted or volunteers.

If I were the commander of the enemy, I would like nothing better than to wait every 30 days for this to come up again.

Of course, this is not implied directly in the pending amendment, but it was implied in other bills which came up for action before the Foreign Policy Committee.

Mr. President, let us look at what has transpired in the history of this country. Let me read the 31 military operations for broad strategic purposes which have been carried on by this country since 1844:

C. THIRTY-ONE MILITARY OPERATIONS FOR BROAD STRATEGIC PURPOSES

1844: Mexico. President Tyler deployed our troops to protect Texas one year before annexation.

1846: Mexico. President Polk ordered General Scott to occupy disputed territory between the Nueces and the Rio Grande.

1853–1854: Japan. Commodore Perry's expedition of 2000 men and ten ships advanced American commercial interests.

1864: Japan. U.S. Naval units participated in a joint effort to force open the Straits of Shimonoseki for commercial operations.

1865–1866: Mexican border. General Sheridan and 50,000 U.S. troops backed up a demand from Secretary of State Seward that French forces withdraw from Mexico.

1888–1889: Samoan Islands. Germany and the United States were close to warfare due to their rivalry over naval privileges in the Samoans.

1899–1901: Philippine Islands. The United States used 126,468 troops against the Philippine Insurrection in order to preserve and foster any rights it had acquired from Spain.

1900–1901: Boxer Rebellion (Peking). The Boxer uprising in China created a demand for troops and marines to relieve foreign legations in Peking and to keep open communication between Peking and the sea.

1906: Cuba. Army units took up quarters in many Cuba towns to preserve order.

1912: Panama. American troops supervised elections outside the Canal Zone.

1912: Cuba. American troops landed to preserve order.

1914: Dominican Republic. U.S. naval forces fired at revolutionaries in order to stop the fighting.

1915: Haiti. By force of arms U.S. troops took over Haiti in part to forestall European intervention.

1916: Dominican Republic. U.S. troops occupied Santo Domingo and supported a military governor in the Dominican Republic.

1917: Cuba. American troops landed because of unsettled political conditions.

1918–1920: Expeditions to Russia. The U.S. contributed some 14,000 men to aid the anti-Bolsheviks and to forestall Japanese expansionist plans in Siberia.

1919–1920: Panama. American troops went outside the Canal Zone to supervise elections.

1919: Honduras. A small American force went ashore to maintain order in a neutral zone during an attempted revolt.

1940: British possessions in Western Atlantic. U.S. occupied military bases on British soil to protect long-range national security interests.

1941: Greenland. The U.S. Army occupied Greenland for the same reason as above.

1941: Iceland. U.S. troops occupied Iceland for the same reason as above.

1941: Dutch Guiana. American troops occupied Dutch Guiana for the same reason as above.

1950–1953: Korean War. U.S. forces acted to assist the Republic of Korea in order "to restore international peace and security in the area."

I do not believe that anyone has satisfactorily condemned President Truman for interfering in that conflict.

1958: Lebanon. Though an important purpose of using U.S. armed forces in Lebanon was to protect American lives, a primary purpose also was to assist Lebanon in preserving its political independence.

That was a decision made by President Eisenhower which, if he had had to depend upon Congress for a decision, we may never have been able to make it, and we would have thereby lost a valuable strategic part of what still can be, as the Senator from Minnesota so aptly describes, the most troublesome spot in the world.

1961: Dominican Waters. U.S. Navy ships took up position three miles off the Dominican coast and Navy jet planes patrolled the shoreline to prevent a revolution in the Dominican Republic.

This is the example the Senator from Minnesota has been talking about and what I have been defending concerning the rights of the President.

1962: Cuban Naval Quarantine. President Kennedy ordered a naval quarantine of Cuba to prevent delivery of additional Russian missiles and to obtain the removal of those already in Cuba.

I cannot imagine what might have happened had we had to debate the question. I remember the trouble we had getting the intelligence. I remember a briefing, as a member of the Preparedness Subcommittee, behind closed doors, with armed guards outside, while Secretary of Defense McNamara was on national television telling the American people the same thing we were learning under the guardianship of the Secret Service.

I do not believe anyone would argue with the rightness of President Kennedy in making the decision he did. He would never have been able to make it if he had to depend upon Congress.

The remainder of the action follows:

1964: Congo. A task force of four U.S. C–130 transport planes with about 100 crew members and paratrooper guards were sent to the Congo to provide airlift for the regular Congolese troops during a Communist-assisted rebellion. Also, the United States had 68 military advisers in Leopoldville.

1964–1971: Vietnam. American forces have acted to support freedom and protect peace in Southeast Asia.

1964–1965: Laos. At the request of the Laotian Government, unarmed U.S. planes flew reconnaissance missions over the Plaine des Jarres. After two jets were shot down, President Johnson carried out a limited reprisal.

1965: Dominican Republic. Though the protection of the lives of U.S. citizens was an important function of U.S. troops sent to the Dominican Republic, the threat of a Communist takeover and the need to provide humanitarian assistance to the Dominican people also were major reasons for the American landings.

1967: Congo. A task force of three U.S. C–130 transports and 150 men ferried Congolese paratroopers in order to crush a revolt against Mobutu's government.

Mr. President, that is just a part of a review of the military operations the United States has been engaged in. My study shows that 155 actions have been engaged in by this country during its nearly 200 years of history.

We have engaged in five declared wars, with two of those declarations being in one war, World War II.

Now while I have considerable faith in Congress, of course, I certainly do not have as much faith in Congress to be the strategic determinant of war, or the tactical determinant of war as I have faith in the Joint Chiefs of Staff, the President, and the National Security Council.

In closing, Mr. President, I do not believe that the language in section 8 of the Constitution gives this body the power that the Senator from Minnesota seems to think it does.

We can declare war. We can declare war every 5 minutes, but only the President can send troops, unless it is to protect our own country, when this body can do that. It can, I believe, order up the Reserves and the National Guard.

Let me read from article I, section 8 of the Constitution:

Article I, section 8 of the Constitution states, "To raise and support armies. . . ." That does not imply that raising and supporting armies means we can determine where the men will be used or how they will be used. Under an act passed last year, the Senate and House Armed Services Committees have been charged with the power of saying what the troop levels shall be, and I think that is, probably, a good move.

"To provide and maintain a Navy:" That does not say anything about the Air Force. That hurts me quite a bit. We should be able to get around that. Right now, I guess, the Air Force is just operating, a right or a left arm, without anyone controlling it. We should take care of that.

"To make rules for the government and regulation of the land and naval forces; . . ." This applies to things like courts martial and other regulations about sending our armed services anywhere and who shall have control over that, but not the use of troops to this theater or that theater or some other theater. That is the President's business.

"To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;" Congress has done that. We have used that power and will continue to use it.

"To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States." Now, Mr. President, to me, article II, section 2 of the Constitution which says, "The President shall be Commander in Chief of the Army, Navy, of the United States"—I assume he is not Commander in Chief of the Air Force by the Constitution—"and of the militia of the several States," Now, Mr. President, to me it is clear that if we want to accomplish what the Senator from Minnesota wants to accomplish and what others want to accomplish, to me the only way to do it is by a constitutional amendment.

I have been engaged in a deep study on this. I have some surprising correspondence from a large group of men that some day I hope to be able to make public as to their feelings on this matter.

I have not had the advice of one single man—Democrat, Republican, liberal, or conservative—in the field of law and international law who has advised amending the Constitution to change the war-making powers of the President.

This is a terrible subject to get into. It would take years for us to prepare language that we could find any agreement on at all. To attempt to do this by this amendment or by the several bills that have been introduced in the Foreign Relations Committee, against which I have testified and against which the Secretary of State has testified, I think is very wrong and very dangerous.

Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER (Mr. PEARSON). The Senator from South Carolina is recognized for 3 minutes.

Mr. THURMOND. Mr. President, I rise in opposition to the pending amendment by the distinguished Senator from Minnesota, Mr. HUMPHREY.

This amendment would prohibit the sending of draftees to a combat zone such as Vietnam after June 30, 1972, unless further authority for such action was given by the Congress. Similar amendments have already been rejected by the Senate.

Mr. President, this amendment would place an unnecessary restriction on the constitutional authority of the President of the United States as Commander in Chief.

It could easily jeopardize the safety of military advisers or instructors who might still be serving in Vietnam this time next year.

It is my hope, and I am sure the hope of the President, that draftees will not be needed in Vietnam after June of next year. However, whether or not they are sent there is a decision which must rest with the Commander in Chief.

Mr. President, under this amendment no assignment of draftees to a combat area can be sustained by the President for more than 30 days without approval of the Congress.

The Senate should consider that the rules of this body would enable a minority to deny the President by simply delaying action for 30 days. Any troop commitment could not stand long without inductees.

Further, the safety of those troops committed by the President would be in jeopardy if the military actions involving them rest in the hands of the legislative branch of Government as opposed to the executive branch of Government. The enemy would be at a great disadvantage as he would only have to read the newspapers to determine the future status of our forces.

It appears this amendment is aimed at our involvement in South Vietnam. Unfortunately, its authority would involve troop commitments to combat zones in the Middle East, Europe or anywhere hostilities might break out.

There is some question as to whether or not U.S. troops would have remained in South Korea had an amendment of this type been in effect. President Truman was correct in sending U.S. forces into Korea, but it took more than 30 days for the wisdom of this move to be realized. Although his actions should have been followed by a request to Congress to declare war.

In such circumstances isolationist advocates would descend upon our Capitol to sway the Congress to overturn the actions of the President, whether or not it was wise.

The Congress must not destroy in the minds of the people of this great country the attitude of trust which we must place in our President. He is faced with difficult decisions and should be supported whenever possible.

Mr. President, I urge the Senate to reject this amendment as a restriction of the President's constitutional powers.

Mr. HUMPHREY. Mr. President, I yield such time as I may need.

If I believed the arguments which have been made by the able Senator from Arizona (Mr. GOLDWATER) and the able Senator from South Carolina (Mr. THURMOND), I would not have this amendment before the Senate. I certainly do not believe that we should restrain the President of the United States in the responsibility he has as Commander in Chief.

I believe I have some acquaintanceship with the burdens and responsibilities which the President has to shoulder as Commander in Chief of the Armed Forces of the United States.

I believe in national defense. I believe in national security. I believe that in the world in which we live today, we need a strong military force. I wish we did not need it, but I am afraid that we do.

I believe that we need an effective defense policy in order to preserve the

peace. I do not advocate unilateral disarmament. I do not believe that we should cripple this country in the face of a hostile force or in any way weaken it.

This amendment does none of these things. This amendment does not in any way restrict the President of the United States from taking those steps necessary to protect our national interests, our vital interests, and our national security.

We must get the record clear on that, regardless of how this vote comes out.

First, if the President of the United States is required, as he sees it, to send the American forces into a particular area and these forces include some inductees, this amendment does not prevent him from doing so. Nor does it require that they be removed. This amendment does say that if the President takes any initial action and if he thinks he will have to send in more men, and those men must be inductees, he then must come to the Congress to get authority for that action.

It has been said here that the enemy would enjoy nothing more than having 30 days to listen to us argue in the Congress as to what we will do.

We can have 2½ million men in the Armed Forces under regular enlistment programs.

We have strengthened the possibilities of a volunteer army here by substantial pay increases and bonuses. We have the recommendations of the Gates Commission Report to accomplish this goal. We have the President's own word that he hopes and plans to have a volunteer army by 1972, basing that estimate on the facts which he already has available.

Furthermore, the Air Force, the Marines, and the Navy are basically volunteer units. The President in no way is restricted under this amendment.

The Senator from South Carolina says that our troops may be endangered if we depend on legislative action. This amendment specifically says that inductees will remain in order that our troops may be protected. It says that those inductees who may be in an area of combat will not be withdrawn because our forces must be protected.

This amendment was drawn by Senators who are conscious of the responsibilities the President has. This amendment was drawn in the full light of history. I note that the Senator from Arizona has told us that the President of the United States has had United States forces engaged in military actions over 30 times. Of all of those 30 times, with the exception of World War I, World War II, and Korea and Vietnam, these forces have consisted entirely of volunteers. There have not been any inductees when we have used our forces in other parts of the world, as we have had to do at times throughout our history.

In most examples—and I say in most examples that can be cited—they have been volunteers.

The point I am presenting here is that because of some of the sad lessons of history that we have experienced, it might be well to involve the Congress not only in after-the-fact decisions but also during the time the decisions are being made.

I have to say most respectfully that Senate Joint Resolution 95, sponsored by the distinguished Senator from Mississippi, also applies this lesson of history. The resolution states on page 3:

> Whenever the Armed Forces of the United States are used in armed conflict under any of the circumstances described in section 2 of this joint resolution, the President shall promptly report that fact to the Congress and shall include in such report a detailed account of the reasons for so using the Armed Forces of the United States, his estimate of the scope of the armed conflict, and the justification for the use of such forces under section 2 of this joint resolution. Upon receiving any such report, the Congress shall decide, within thirty days after the first day on which Armed Forces of the United States were committed to armed conflict, whether the authority to so use the Armed Forces shall be extended or terminated.

Mr. President, I say to Senators that this particular provision goes beyond what we have in this amendment because our amendment does not require that the use of armed forces be terminated. It requires only that inductees shall not be used against their will or against the authority of Congress.

I submit that the distinguished Senator from Mississippi in his own resolution has practically the same language as we have, except that he goes further. In his resolution it is stated:

> Upon receiving any such report, the Congress shall decide, within 30 days after the first day on which Armed Forces of the United States were committed to armed conflict, whether the authority to so use the Armed Forces shall be extended or terminated.

That would include Volunteers and inductees; the Humphrey-Cranston proposal covers only inductees. I submit that our amendment is carefully drawn. Let it be said that I am not one who wants to see the President, whoever he may be, without the right to exercise his constitutional power as Commander in Chief, but I do not want those powers so interpreted as to erase and completely destroy the constitutional power of Congress.

Congress, which calls up the men, should have something to say about how they will be used. We would do this without crippling the Executive. We would do this by having the force limit under this bill of 2.4 million men. We would do this by having a force level of American Armed Forces which can be almost totally recruited under the total volunteer program.

Our amendment would not be applied immediately or to men presently in the Armed Forces, whether they are inductees or enlistees. It would become effective after June 30, 1972, and it is at that time that the President himself said we should be at the status of a full volunteer army.

Mr. President, I think this is a necessary amendment and I hope it will be judged on its merits and not on fiction or doomsday rumors. This amendment would not cripple the President's power to protect the national interest or have us stand helpless before the enemy.

I do not believe the legislative branch is so helpless that if our national interest were affected, or if the President reported our national interest to be in jeopardy, that Congress would turn him down. I believe there is enough respect for Presidential determination and judgment that if he has a case he can make, Congress will not only back him but do it enthusiastically.

I might mention that what has happened of late is that Congress has been too willing to back up anything that came here. That is why we are in our present difficult situation. After having been in the other branch of Government, I am back in the Senate where I started, and I wish to state that the Senate had better reassert its constitutional power. If we do not, we will find ourselves being asked to give consent without ever having any chance to advise.

Mr. TOWER. Mr. President, I yield myself 2 minutes on my time.

The PRESIDING OFFICER (Mr. WEICKER). The Senator is recognized.

Mr. TOWER. Mr. President, the rationale of the distinguished Senator from Mississippi overlooks two facts. He said we can have a quick reaction force with the Air Force, Navy, and the Marines, made up largely of volunteers. What has not been said is that a number of these volunteers, men who volunteer for these services, do so because they did not want to be drafted into the Army. Many young men chose to volunteer in the Marine Corps, Navy, and Air Force because they preferred one of those branches of service when they were liable to be drafted into the Army. They have that choice. Therefore, we would be picking these young men who avoided the draft by volunteering for a particular service and who said they would rather go into a particular service, while the ones who sat around and took their chances on being drafted into the Army, would never have to go into combat.

Another factor is that as of June 30, 1972, next year, we would have to create separate units for draftees and Regulars so that a draftee could never be placed in a quick-reaction unit.

Mr. HUMPHREY. Mr. President, will the Senator yield at that point?

Mr. TOWER. That would mean the draftees would be in units by themselves and not in the elite or crack units, and not serving with the Regulars or with the seasoned men; and if called upon to go into a combat situation we would be sending in a bunch of fairly green people that had not had the benefit of being a part of a Regular fighting unit.

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

Mr. TOWER. I yield to the Senator on his own time.

Mr. HUMPHREY. Mr. President, to keep the record reasonably accurate, what the Senator has just said is just not true. If the inductees were in a unit and the President called up that unit, this proposal does not provide that that unit cannot go into action. It says if he is going to call up a unit then he must come

back to Congress. It does not mean the inductees would be separated from the enlistees. It provides that the President may use the units we have—Army, Navy, Air Force, Coast Guard, whatever we have, but if he uses them, within 48 hours he must report to Congress and within 30 days Congress would decide if he can use inductees for combat.

It does not remove those inductees being used and it does not affect the present constituency of the Armed Forces.

This amendment may have limitations. But it has a real purpose and that purpose has been embodied in several resolutions, one of which I have just mentioned.

It is not an amendment to deny immediate reaction on the part of the President or to keep the Armed Forces at an unhealthy level. It does not interfere with selective service. But it does provide that once the President has taken a step in the interests of national security, before he commits another 100,000 or 50,000 inductees to combat after he has made an initial effort, he must come back to Congress for justification. That is what the Senator from Mississippi recommended in Senate Joint Resolution 95, but he went further and said that if the President came in with his report Congress could terminate or extend his authority. We do not go that far. We say only that Congress can regulate the use of inductees.

Mr. TOWER. Mr. President, I yield myself 30 seconds on my time.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. I think that the point raised by the distinguished Senator from South Carolina (Mr. THURMOND) is still valid; and that is that a determined minority could preclude the kind of formalized action that would allow the President, after 30 days, to send inductees into action, and at the end of the 30 days you would have to remove all inductees from that unit and this would cause a serious problem in manpower.

Mr. HUMPHREY. That is not the case. Those inductees are not removed and the amendment specifically says so.

Because of my respect for the Senator and since I know he was not here for all of the debate, I wish to state again that those men are not removed but if additional men are sent he has to get the authority.

Mr. TOWER. Then you have to get them from the unit?

Mr. HUMPHREY. Not from the unit presently committed.

Mr. TOWER. I mean, committed after 30 days.

Mr. HUMPHREY. The Senator is correct in that.

Mr. DOMINICK. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. DOMINICK. Mr. President, this is an important amendment and we should have a chance to have our say.

I rise in opposition to the amendment. I must say, as the distinguished Senator from Minnesota said, that I do so because I objected strenuously when he was in the executive department and the executive department in the White House was trying to determine what the tactical maneuvers should be overseas. Now, he is going one step further and saying that Congress should determine the makeup of our troops in any tactical area.

I can think of nothing worse than having the Congress of the United States be the one that has to determine how tactical forces of the United States are going to be moved in a time of hostilities. It seems to me that is about as bad as anything I can think of.

One of the things we do around here is try to provide the Armed Forces of the United States for the defense of this country, but when they have to be used, we want them used in the most efficient way, so we can get it over with and get them out as soon as possible. To the extent that Congress assumes the responsibility for the makeup and the tactical movement of those troops, we are going to find ourselves in increasing difficulty.

Let me point out an analogy. When we federalize the National Guard in an emergency, that National Guard can be sent by the President of the United States anywhere he wants to. The same thing is true when we call up the Reserves. The Reserves are permitted to be sent anywhere. If we take this action with regard to inductees, why should we not take the same action and say Congress has the right to say when and where to send the National Guard or the Reserves?

I have said for a long time that one of the difficult questions we have before this body is to try to have Congress have a part in decisionmaking in future hostilities. But we are not in future hostilities; we are in present hostilities. Whenever we try to take a responsibility to apply the tactical situation to present hostilities, the Congress of the United States will find itself in a morass out of which it will never be able to crawl.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Minnesota (Mr. HUMPHREY), for himself and the Senator from California (Mr. CRANSTON). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Michigan (Mr. HART), the Senator from Montana (Mr. METCALF) and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senators from Ohio (Mr. TAFT and SAXBE), and the Senator from Vermont (Mr. PROUTY) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent by leave of the Senate on official business.

The Senator from Alaska (Mr. STEVENS) is detained on official business.

If present and voting, the Senator from South Dakota (Mr. MUNDT) and the Senator from Pennsylvania (Mr. SCOTT) would each vote "nay."

On this vote, the Senator from Massachusetts (Mr. BROOKE) is paired with the Senator from Alaska (Mr. STEVENS). If present and voting, the Senator from Massachusetts would vote "yea" and the Senator from Alaska would vote "nay."

The result was announced—yeas 23, nays 66, as follows:

[No. 125 Leg.]

YEAS—23

Bayh	Humphrey	Pastore
Church	Inouye	Pell
Cranston	Mansfield	Percy
Fulbright	McGovern	Proxmire
Gravel	Mondale	Stevenson
Hartke	Muskie	Tunney
Hatfield	Nelson	Williams
Hughes	Packwood	

NAYS—66

Aiken	Curtis	Magnuson
Allen	Dole	Mathias
Allott	Dominick	McClellan
Anderson	Eastland	McGee
Baker	Ellender	McIntyre
Beall	Ervin	Miller
Bellmon	Fannin	Montoya
Bennett	Fong	Moss
Bentsen	Gambrell	Pearson
Bible	Goldwater	Randolph
Boggs	Griffin	Roth
Brock	Gurney	Schweiker
Buckley	Hansen	Smith
Burdick	Harris	Sparkman
Byrd, Va.	Hollings	Spong
Byrd, W. Va.	Hruska	Stennis
Cannon	Jackson	Symington
Case	Javits	Talmadge
Chiles	Jordan, N.C.	Thurmond
Cook	Jordan, Idaho	Tower
Cooper	Kennedy	Weicker
Cotton	Long	Young

NOT VOTING—11

Brooke	Mundt	Scott
Eagleton	Prouty	Stevens
Hart	Ribicoff	Taft
Metcalf	Saxbe	

So Mr. HUMPHREY's amendment (No. 229) was rejected.

Mr. GRAVEL obtained the floor.

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

Mr. GRAVEL. I yield.

PROGRAM

Mr. GRIFFIN. Mr. President, for the benefit of the Senate, I rise to inquire of the distinguished majority leader what the program might be for the rest of the day, for the rest of the week, and as far into the future as he may care to indicate.

Mr. MANSFIELD. I am delighted that the distinguished acting minority leader has raised that question, with so many Senators in attendance.

It is my understanding that there will be one more amendment to be offered by the distinguished Senator from Alaska (Mr. GRAVEL); that if this amendment is accepted—I do not know what it is—that will be the end of it. If it is not accepted, the debate will be very brief. That will be followed by a rollcall vote, and then it is anticipated that the next step will be third reading and final passage of the bill.

If we complete that this afternoon, the Senate will then adjourn until Monday, at which time we will take up the authorization for NASA, which will take

all day. There will be votes on amendments, but the final vote will not occur until sometime Tuesday.

That will be followed by the saline water conversion measure. We think that can be worked out on a time limitation basis.

The authorization for the National Science Foundation and the resolution continuing appropriations beyond the end of the fiscal year will be brought up on Tuesday next, in which an agreement already has been entered.

Other items on the calendar will be taken up at that time, including the two Idaho bills, I must say to the Senators from Idaho.

If we can complete all that, and perhaps the Treasury and Post Office appropriations bill by Wednesday evening, even if it is late, we might get an extra day off over the Fourth of July weekend.

This is not a carrot, not a stick; it is just the best we can do at this time to let the Senate know what the situation is.

Mr. GRIFFIN. I thank the Senator.

THE MILITARY SELECTIVE SERVICE ACT

The Senate continued with the consideration of the bill (H.R. 6531) to amend the Military Selective Service Act of 1967; to increase military pay; to authorize military active duty strengths for fiscal year 1972; and for other purposes.

AMENDMENT NO. 203

Mr. GRAVEL. Mr. President, I will be very brief. I call up amendment No. 203.

The PRESIDING OFFICER. The amendment offered by the Senator from Alaska will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. GRAVEL. 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 is as follows:

On page 29, line 16, strike out "seven" and insert in lieu thereof "nine".

On page 31, line 20, insert immediately after the period the following new language: "Such local boards, or separate panels thereof each consisting of three or more members, shall, under rules and regulations prescribed by the President, have the power within the respective jurisdictions of such local boards to hear and determine, subject to the right of appeal to the appeal boards herein authorized, all questions or claims with respect to inclusion for, or exemption or deferment from, training and service under this title, of all individuals within the jurisdiction of such local boards. The decisions of such local board shall be conclusive when supported by substantial evidence in a written record considered as a whole, except where an appeal is authorized and is taken in accordance with such rules and regulations as the President may prescribe. It shall be the right of every individual who requests a hearing before such local board with respect to inclusion for, or exemption from, training and service under this title, or who takes an appeal to the appeal boards herein authorized, to be represented at such hearing or appeal by counsel of his own choosing."

On page 31, between lines 20 and 21, insert the following new paragraph:

"(26) Section 10(b)(3) is further amended by striking out the last proviso."

Renumber paragraphs (26) through (32) as paragraphs (27) through (33), respectively.

Mr. GRAVEL. Mr. President, I should like to modify the amendment.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. GRAVEL. Mr. President, earlier this afternoon, the amendment by Senator KENNEDY was adopted on a rollcall vote. That amendment would permit an inductee to go before the draft board, on an appeal, with an attorney, so that the attorney would be allowed in the room with the young man. This amendment does the same thing, and I am willing to modify this amendment so that there will be no redundancy. All it does then is require that there be a written record.

The situation at present is that a person would go before the hearing with an attorney; there would be no written record; and everybody would walk away with a difference of opinion later, if there were litigation in court.

It would seem logical that if an attorney were to be present, the least we could do would be to have a written record, which would mean a stenographer would be there, as at our hearings, who would record what takes place, and that record could be used later.

There have been cases in the past in which the interpretation of the records has been altered. There have been cases in Florida. I do not know how extensive that practice is. In my mind, it is a very simple issue, and I hope the manager of the bill, the Senator from Mississippi, will accept this amendment without a rollcall vote.

Mr. STENNIS. Mr. President, I yield myself such time as I may use.

The Senator's amendment brings in the very matter we debated a week ago in the first Kennedy amendment, and it was rejected at that time. The reason it was rejected was described by a proponent of the second amendment by saying that it gave too much leeway to the counsel. This amendment refers to the right "to be represented at such hearing or appeal by counsel of his own choosing." The same matter was covered a few moments ago, when the Senate voted to approve——

Mr. GRAVEL. Mr. President, I would be prepared to modify my amendment to take away the redundancy the Senator speaks of. I would be prepared to modify it by striking, on line 8, page 2, from "it shall" all the way to the end of the paragraph, line 13. So that would omit the language of the Kennedy amendment that was adopted today. The only thing that would be left in this amendment would be that a written record be kept of the proceedings; that is all.

Mr. STENNIS. In reference to the Senator's modification of his amendment, I point out that there are two pages with references to other matters, with all kinds of demands on the local boards, and rules and regulations by the President.

We have been all over this twice, in two votes, and we just adopted an amendment by the Senator from Massachusetts which included all the provisions in behalf of the registrant—counsel being present and a great number of other things.

I respectfully say that the subject matter has been covered. The question about a record was debated the other day. Objection was had on the floor, and I understand that some of the votes against the amendment at that time were because of the requirement about the record in every case. This goes back to the same proposition about support by substantial evidence in a written record. I do not know what else may be in this language.

But the basic principles of it have already been adopted, except for the written record. Again, we have thousands of boards who have no adequate member of employees to help them. The lawyer is already allowed to make up the record, so that there will not be any question about that. The Kennedy amendment provides that when there is an adverse ruling:

In the event of a decision adverse to the claim of the registrant, the local board or appeals board making the decision shall, upon request, furnish such registrant with a brief written statement of the reasons for its decision.

So the record is already there with reference to the file. The registrant already has many rights in filling up the record of what he wants as evidence. His attorney will be there at the hearing to get the benefit of all this, and he can get things put into the record.

We are piling up matters on the local boards which will place such heavy loads upon them, they will not be able to carry them.

Mr. GRAVEL. Mr. President, there is not too much more than I can add. Senators understand it. I want to assure the Senator from Mississippi that if there is any new language in this amendment other than what I have seen on the floor, he is authorized on my behalf to strike it out in conference and that would give him the time there. But there is no new language in the bill or the law. There is no change.

I am prepared to knock out the redundancy. It will not do any harm. It will provide for a written record of the hearing where there is an attorney, which to my mind is basic jurisprudence.

Mr. President, I am prepared to vote.

The PRESIDING OFFICER (Mr. WEICKER). The Chair asks the Senator from Alaska whether he seeks to modify his amendment now.

Mr. GRAVEL. Yes, Mr. President; I ask unanimous consent to modify my amendment by striking out the language on page 2, line 8, where it begins "It shall be the right of" down through the end of line 13, "counsel of his own choosing."

The PRESIDING OFFICER. The amendment will be so modified.

The text of the amendment as modified is as follows:

On page 29, line 16, strike out "seven" and insert in lieu thereof "nine".

On page 31, line 20, insert immediately after the period the following new language: "Such local boards, or separate panels thereof each consisting of three or more members, shall, under rules and regulations prescribed by the President, have the power within the respective jurisdictions of such local boards to hear and determine, subject to the right of appeal to the appeal boards herein authorized, all questions or claims with respect to inclusion for, or exemption or deferment from, training and service under this title, of all individuals within the jurisdiction of such local boards. The decisions of such local board shall be conclusive when supported by substantial evidence in a written record considered as a whole, except where an appeal is authorized and is taken in accordance with such rules and regulations as the President may prescribe.

On page 31, between lines 20 and 21, insert the following new paragraph:

"(26) Section 10(b)(3) is further amended by striking out the last proviso."

Renumber paragraphs (26) through (32) as paragraphs (27) through (33), respectively.

Mr. ERVIN. Mr. President, I trust that the Senate will not adopt the pending amendment. Its underlying theory is that when the Government of the United States undertakes to secure military personnel through the draft, it is imposing punishment on those who are called upon to serve their Nation.

I see no purpose to be served by this amendment. It would require a court reporter to be employed in every draft area of the United States.

Mind you, Mr. President, the written record would be of no great advantage after it had been made, because in so many areas of the country, particularly in my area, draft boards usually know the registrants and rely on their own personal knowledge, and information which is of common knowledge in the community when they discharge their duties under the draft act. They ought not to be required to act on the theory that determining who should be drafted is an adversary proceeding between the U.S. Government and the registrants. And we ought not to legislate on the theory that the Government punishes a man when it calls upon him to serve in the Armed Forces of the Nation in time of peril.

Quite the contrary. I think that the Government of the United States is paying a distinct honor to any man when it asks him to serve i nthe Armed Forces of the United States in time of danger.

There is a provision in another amendment adopted a moment ago that the registrant can bring in witnesses before the draft boards so that they may testify. But there is no provision to bring in witnesses before draft boards to testify against the claim of the registrant. The law does not contemplate that. Since the written record is not to be complete, it would be a useless gesture to require it.

Manifestly the knowledge of the members of draft boards would not be in the record. Moreover, they would not have any power to bring witnesses to testify contrary to the claim of the registrant. Hence, the record would be incomplete in any event. Passing upon the claims of a registrant is not like trying a man for a crime.

As I say, Mr. President, when the Government of the United States calls upon a man to serve in the Armed Forces of the United States, it is paying him a distinct honor. It is not proposing to disgrace him or to punish him.

I do not believe that we need court reporters in hearings before a draft board.

I sincerely trust that the Senate will reject the pending amendment.

Mr. STENNIS. Mr. President, I yield myself 1 minute and I will then be ready to vote.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 1 minute.

Mr. STENNIS. I have before me the law on the books and brought forward in the bill. The amendment would strike out five lines on page 2, on page 8, and four and a half more lines down at the top of the next page, and then there is the proviso down here that is 10 or 12 lines long, which goes into considerable explanation to try to explain it all.

I am willing to take the verdict of the Senate, since we have just passed an amendment that covers the rights of registrants.

Mr. TOWER. Mr. President, I move to table the amendment offered by the Senator from Alaska (Mr. GRAVEL).

The PRESIDING OFFICER (Mr. WEICKER). The question is on agreeing to the motion to table the amendment of the Senator from Alaska (Mr. GRAVEL).

Mr. GRAVEL. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Alaska (Mr. GRAVEL).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Michigan (Mr. HART), the Senator from Montana (Mr. METCALF), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senators from Ohio (Mr. SAXBE and Mr. TAFT) and the Senator from Vermont (Mr. PROUTY) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent by leave of the Senate on official business.

The Senator from Tennessee (Mr. BAKER) is detained on official business.

If present and voting, the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from South Dakota (Mr. MUNDT) and the Senator from Pennsylvania (Mr. SCOTT) would each vote "yea."

The result was announced—yeas 67, nays 20, as follows:

[No. 126 Leg.]

YEAS—67

Aiken	Eastland	McGee
Allen	Ellender	McIntyre
Allott	Ervin	Miller
Anderson	Fannin	Montoya
Beall	Fong	Pastore
Bellmon	Gambrell	Pearson
Bennett	Goldwater	Pell
Bentsen	Griffin	Percy
Bible	Gurney	Randolph
Boggs	Hansen	Roth
Brock	Hollings	Schweiker
Buckley	Hruska	Smith
Burdick	Hughes	Sparkman
Byrd, Va.	Inouye	Spong
Cannon	Jackson	Stennis
Case	Javits	Stevens
Chiles	Jordan, N.C.	Symington
Cook	Jordan, Idaho	Thurmond
Cooper	Kennedy	Tower
Cotton	Long	Weicker
Curtis	Magnuson	Young
Dole	Mathias	
Dominick	McClellan	

NAYS—20

Bayh	Hatfield	Nelson
Byrd, W. Va.	Humphrey	Packwood
Church	Mansfield	Proxmire
Cranston	McGovern	Stevenson
Gravel	Mondale	Tunney
Harris	Moss	Williams
Hartke	Muskie	

NOT VOTING—13

Baker	Metcalf	Scott
Brooke	Mundt	Taft
Eagleton	Prouty	Talmadge
Fulbright	Ribicoff	
Hart	Saxbe	

So the motion to table Mr. GRAVEL's amendment was agreed to.

The PRESIDING OFFICER. The Senate having previously agreed to the committee amendment in the nature of a substitute, and the bill as thus amended being treated as original text for the purpose of further amendment, therefore, if there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

ORDER FOR ADJOURNMENT TO 10 A.M. MONDAY, JUNE 28, 1971, FROM MONDAY TO 9 A.M. ON TUESDAY, JUNE 29, 1971, AND FROM TUESDAY TO 9 A.M. ON WEDNESDAY, JUNE 30, 1971

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 a.m. on Monday next; from Monday until Tuesday at 9 a.m., and from Tuesday to Wednesday at 9 a.m. With respect to Thursday, we will have to wait and see.

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

THE MILITARY SELECTIVE SERVICE ACT

The Senate continued with the consideration of the bill (H.R. 6531) to amend the Military Selective Service Act of 1967; to increase military pay; to authorize military active duty strengths for fiscal year 1972; and for other purposes.

Mr. BAYH. Mr. President, those of us who believe that the war in Indochina should be ended—ended now—are faced with a difficult question in voting on final passage of the Selective Service Act. As I have said before, the Senate cannot, the Senate should not, seek to avoid the implications of our actions here today on the war that hangs over us. I believe that continuation of this war is illegal, immoral, and senseless. And I am prepared to take whatever steps I can to bring it to a halt.

That is why I supported the amendment of Senator NELSON to prevent the President from assigning draftees to combat in Vietnam.

That is why I supported the amendment of Senator HATFIELD to end the draft altogether when the present act expires.

That is why I joined with Senator SCHWEIKER to limit any draft extension to 1 year, rather than the 2 years the President requested.

That is why I supported the amendment of Senator GRAVEL to limit the draft to times when Congress has declared a state of war.

That is why I supported the amendments of Senators KENNEDY and TAFT to limit the number of men the President could draft under any circumstances.

That is why I supported the amendment of Senator CRANSTON to prevent the President from drafting men out of the vast secondary manpower pool—13 million Americans who have been deferred under earlier law.

The most important objective before us is to stop this terrible war. And if I felt that the defeat of this bill would clearly further this objective, I would be prepared to oppose final passage of the Selective Service Act.

But Mr. President it should be unfortunately clear to all of us that the failure to pass this bill will not bring a speedier end to the war in Indochina. Indeed, even if the Senate had accepted Senator CRANSTON'S amendment, the President would, until this act were signed into law, retain the power to draft out of a vast pool of 13 million men previously deferred, a level 10 times greater than the draft authority contained in this bill.

Moreover, every day we delay passage of this bill, we delay the implementation of healthy reforms, of new provisions which the Senate has adopted.

We have taken action to insure that families that have lost a son in combat need not sacrifice another to war.

We have insured that selective service regulations will be published and made available before they go into effect.

We have enacted significant pay increases that will be a considerable aid in reestablishing the dignity of military service.

We have established firm congressional guidance for dealing with the tragic crisis of drug abuse in the military.

We have provided for the use of draft registration machinery to assist in the important work of registering new voters 18 years of age.

We have guaranteed that those drafted out of colleges and universities will be treated fairly in seeking readmission and retention of their academic standing.

We have created a national draft pool rather than a fragmented system of separate pools and provided for full random selection of draftees.

We have established a national policy of creating draft boards truly reflective of the constituency that will come before them.

We have adopted my amendment requiring more detailed justification of military manpower levels and their relationship to national security requirements—including an annual report of the impact of a 10-percent reduction in force levels.

Many of these important matters have been resolved in the short period since we invoked cloture.

As important as these and other significant features of the bill may be, Mr. President, the most important provisions of this bill are those which affect the central objective I would endorse for this body and for all those who make American policy, the prompt termination of the war in Vietnam. This bill contains several provisions which I believe will help us toward attaining that objective.

The bill contains an overall limit on Armed Forces manpower—a reduction of 56,000 men below the level sought by the Secretary of Defense.

The bill contains a limit on the number of men that may be drafted by the President over each of the next 2 years, and requires that he obtain new congressional authority if he seeks to exceed these limits, under any circumstances.

And most important of all, the bill for the first time declares as national policy the setting of a date for complete withdrawal of our forces from Indochina. Mr. President, the Mansfield amendment is the most significant step the Senate has taken in this session. We are in debt to the distinguished Senator from Montana for his leadership in drafting and securing passage of this landmark declaration. It is the most significant step we have yet taken to bring the war to an end.

I am not prepared to delay any longer in moving toward final passage and signing into law of the Mansfield amendment and the other important measures I have discussed. I will vote for the Senate's passage of this measure.

Mr. President, I support the bill as it now stands and I hope it will emerge whole from conference, promptly and successfully. I have the gravest doubts whether I could support—and whether many of my colleagues would support—a conference bill that deleted the Mansfield amendment or other major and vitally needed provisions which we have added. I urge the Senator from Mississippi and his colleagues to uphold these provisions.

Mr. ALLOTT. Mr. President, I would like to make a prediction—a prediction that I hope will be proved wrong.

I predict that those Senators who voted for the Mansfield amendment are in for nine disappointing and embarrassing months. These men have given themselves as hostages, not to fortune, but to something more dangerous and sinister than fortune. They have given themselves as hostages to the Government of North Vietnam.

The Mansfield amendment records the opinion of the majority of Senators that the United States should leave Vietnam in 9 months if and only if all American prisoners of war are released by then.

The assumption is that we have now told Hanoi to test our good faith. The assumption is that the Mansfield amendment will give Hanoi an opportunity to secure American withdrawal by releasing our prisoners. According to the supporters of the Mansfield amendment, an expression of opinion such as that contained in the amendment will give Hanoi the opportunity and the motive to release our prisoners.

Now the Hanoi Government has 9 months in which to justify the judgment of those who supported the Mansfield amendment.

Regardless of the fate of the Mansfield amendment in the House-Senate conference, the passage of the amendment puts a majority of Senators on record with the clearly implied belief that Hanoi will release our prisoners to insure American withdrawal.

I do not question the motives of the Senators who voted for this amendment. But for reasons which, unfortunately, may well become clear in the next 9 months, I do question their judgment.

Those of us who opposed the amendment warned that the amendment would undercut our bargaining position with the Hanoi Government. Those who supported the amendment argued that passage of the amendment would facilitate prisoner release. They reasoned that Hanoi would have a strong incentive to release the prisoners if they understand that release would encourage total American withdrawal.

We who opposed the amendment countered by arguing that the Hanoi Government already knows that we are withdrawing our forces. That is clearly U.S. policy. We argued that the Mansfield amendment would only complicate the process of obtaining prisoner release because Hanoi would interpret the amendment as a sign of American desire to get out with maximum speed regardless of the consequences. Thus Hanoi will feel little incentive to facilitate prisoner release.

In fact, Hanoi may decide to up the ante. For example, Hanoi may decide to make prisoner release contingent not merely on complete American withdrawal, but also on American willingness to topple the Government of South Vietnam as our forces leave.

And why should Hanoi stop there? They can up the ante again, and insist

that prisoners will be released only if we pay some huge ransom while toppling the South Vietnam Government and withdrawing our troops.

In short, Mr. President, Hanoi may well interpret the Mansfield amendment as a license to up the ante indefinitely.

I fervently hope that this will not happen. I hope that the supporters of the Mansfield amendment are correct and that Hanoi will make of the amendment an opportunity for progress and not mischief.

I hope this for the sake of our prisoners of war. And I hope this for the sake of those Senators who have wagered so much on their ability to predict an unprecedented act of humaneness and reasonableness on the part of the Hanoi Government.

Mr. President, so that all Senators can consider an interesting report on the vagaries of Hanoi's prisoner-of-war policy, I ask unanimous consent that the column by Messrs. Evans and Novak from this morning's Washington Post be printed in the RECORD.

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

HANOI DOUBLETALK ON POWs
(By Rowland Evans and Robert Novak)

The skill and audacity with which the Vietnamese Communists manipulate American public opinion on the emotion-charged prisoner-of-war issue is illustrated by a diplomatic cable transmitted back to Hanoi June 11 by the North Vietnamese negotiating team in Paris.

That cable contained the official Communist transcript of an interview in Paris three days earlier between Xuan Thuy, chief North Vietnamese negotiator, and Chalmers M. Roberts of The Washington Post. The transcript quoted Xuan Thuy as saying that "if the United States sets a reasonable deadline for the complete withdrawal of troops, we could discuss the settlement of the prisoner of war question"—precisely the Hanoi line.

In truth, however, that is not what the Communist negotiator said at all. Roberts, a respected diplomatic correspondent, reported Xuan Thuy as telling him, "if a reasonable date is set, the question of prisoners may be settled." In response to another question, he amended that to "*will* be settled."

The discrepancy reveals the POW game played by the Hanoi Politburo. The soft line actually given in the interview with Roberts is intended to convince Americans that the POWs will come home just as soon as President Nixon sets a troop withdrawal deadline. The altered transcript cabled to Hanoi reiterated the hard line that is the Vietnamese reality: Hanoi promises nothing whatever in return for a troop withdrawal deadline.

This audacious game has worked, feeding demands in the United States for quick withdrawal. Two antiwar Democrats, Sen. Vance Hartke of Indiana and Rep. Robert Leggett of California, returned from talks with the Communists in Paris indicating that the Americans were to blame for the negotiations deadlock. Clark Clifford, former Secretary of Defense, has predicted release of the prisoners 30 days after agreement to withdraw. In a climate further soured by the Pentagon papers, many Americans believe the worst of their own country's leaders while exercising complete gullibility about Communist promises.

When not talking to American politicians and journalists, the Communists revert in formal Paris sessions to the hard line of their official statements. Based on those statements, there is every reason to believe that the Communists plan to use the POWs as hostages to steadily up the ante in fulfilling all goals in Vietnam.

The basic position is point one of the South Vietnamese Communist eight-point "elaboration" of last Sept. 17. It not only links prisoner releases with a fixed date for U.S. troops withdrawals but also talks about taking all U.S. weapons and war materials from South Vietnamese troops and dismantling U.S. bases in Vietnam. Thus, the troop withdrawal deadline accomplishes nothing.

Consistently, the official Communist line in Paris has been that such a deadline set by Mr. Nixon would win him merely the right to *discuss* prisoner releases. Mme. Nguyen Thi Binh, chief South Vietnamese Communist negotiator, deviated from this only once. On April 15, an article by her in the French newspaper Le Monde suggested that Mr. Nixon need only fix a deadline "for GIs and American prisoners to be rapidly and safely returned."

But on the very day that article appeared, Mme. Binh was her usual intractable self at the negotiations session. Prisoners would return home, she said, only after the war had "come to an end"—that is, after a political settlement along Communist lines.

Rep. Leggett's visit to Paris on May 31 again showed the two faces Nguyen Van Tien, Mme. Binh's deputy, told the congressman that POWs could be released as soon as Mr. Nixon set a "reasonable date" for withdrawal. But when reporters queried Communist spokesmen about Leggett's visit, they were told repatriation of prisoners would be merely *discussed* once the withdrawal of troops was announced.

Still another example occurred when Anthony Lewis of The New York Times interviewed Xuan Thuy May 21. Lewis reported the North Vietnamese negotiator "understood the concern about the American prisoners and was ready to do something immediately . . . if Mr. Nixon set a withdrawal date." But the official Communist "transcript" cabled to Hanoi said only the Communists will "be ready to talk to Mr. Nixon on the POW issue" after a troop withdrawal.

The pattern is unmistakable. The ransom for American POWs will be much dearer than the Democratic-sponsored troop withdrawal deadline. To get them home, the U.S. must agree to humiliating concessions ending with a Communist regime in Saigon. Such is the iron *realpolitik* behind the Oriental smiles exhibited in Paris for American politicians.

Mr. THURMOND. Mr. President, I support the final passage of the Selective Service bill as amended by the Senate.

The bill would provide for the extension of the present Selective Service Act and thereby insure that minimum military manpower requirements would be met for the next few years.

The limited draft calls under the ceilings imposed by the Senate for the next 2 years will provide the means to insure our national security. Necessary manpower provided by the draft will enable our ground forces to remain strong and the continuance of the draft will insure the necessary volunteers needed to maintain our strategic forces.

Since May 6 the Senate has debated the pending bill, many amendments have been rejected while others have been accepted. I am confident the Senate conferees will vigorously fight for the Senate position as reflected by the amendments affixed to this bill during this long deliberation.

In conclusion, I urge Senators to support this bill on final passage.

I wish to commend the distinguished Senator from Mississippi (Mr. STENNIS) for the excellent manner in which he has handled the bill, and the distinguished ranking minority member of the Senate Armed Services Committee (Mrs. SMITH), for her outstanding leadership in the committee and on the floor of the Senate.

Mrs. SMITH. Mr. President, I want to commend the distinguished chairman of the Committee on Armed Services, Mr. STENNIS, for his outstanding performance in the management of the passage of the draft extension bill. I have never seen a Member of this legislative body work so hard and diligently on a bill and more effectively than has the Senator from Mississippi.

More than that, he has performed so admirably in his patience and tolerance and understanding in one of the more difficult legislative environments of this body. Yet, he has done so without any dilution of his dedication to his country or the firmness of his resolution for a realistic and strong bill.

He has rendered a great service to his country and to the people of the United States and I salute him.

I also wish to commend the chief of staff of the Committee on Armed Services, Mr. T. Edward Braswell, Jr., and his associates for their diligence and assistance, beginning with the preparation for the committee hearings, the weeks of hearings and markup of the bill, and their constant attention and help during these weeks of debate in the Senate Chamber.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

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 Missouri (Mr. EAGLETON), the Senator from Michigan (Mr. HART), the Senator from Montana (Mr. METCALF), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senators from Ohio (Mr. TAFT and Mr. SAXBE), and the Senator from Vermont (Mr. PROUTY) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent by leave of the Senate on official business.

The Senator from Illinois (Mr. PERCY) is detained on official business.

If present and voting, the Senator from South Dakota (Mr. MUNDT), the Senator from Illinois (Mr. PERCY), and the

Senator from Pennsylvania (Mr. SCOTT) would each vote "yea."

On this vote, the Senator from Ohio (Mr. TAFT) is paired with the Senator from Massachusetts (Mr. BROOKE). If present and voting, the Senator from Ohio would vote "yea" and the Senator from Massachusetts would vote "nay."

The result was announced—yeas 72, nays 16, as follows:

[No. 127 Leg.]

YEAS—72

Aiken	Dominick	Miller
Allen	Eastland	Mondale
Allott	Ellender	Montoya
Anderson	Ervin	Moss
Bayh	Fannin	Muskie
Beall	Fong	Packwood
Bellmon	Gambrell	Pastore
Bennett	Griffin	Pearson
Bentsen	Gurney	Pell
Bible	Hansen	Randolph
Boggs	Harris	Roth
Brock	Hollings	Smith
Buckley	Hruska	Sparkman
Burdick	Humphrey	Spong
Byrd, Va.	Jackson	Stennis
Byrd, W. Va.	Javits	Stevens
Cannon	Jordan, N.C.	Stevenson
Case	Jordan, Idaho	Symington
Chiles	Kennedy	Thurmond
Cook	Long	Tower
Cooper	Mathias	Tunney
Cotton	McClellan	Weicker
Curtis	McGee	Williams
Dole	McIntyre	Young

NAYS—16

Baker	Hartke	McGovern
Church	Hatfield	Nelson
Cranston	Hughes	Proxmire
Fulbright	Inouye	Schweiker
Goldwater	Magnuson	
Gravel	Mansfield	

NOT VOTING—12

Brooke	Mundt	Saxbe
Eagleton	Percy	Scott
Hart	Prouty	Taft
Metcalf	Ribicoff	Talmadge

So the bill (H.R. 6531) was passed.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the bill was passed.

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, I ask unanimous consent that the bill be reprinted, with all amendments, as finally passed by the Senate, and that the Secretary be authorized to make purely technical corrections, such as renumbering sections.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. STENNIS. Mr. President, I move that the Senate request a conference with the House on the bill and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. WEICKER) appointed Mr. STENNIS, Mr. SYMINGTON, Mr. JACKSON, Mr. MCINTYRE, Mr. BYRD of Virginia, Mrs. SMITH, Mr. THURMOND, Mr. TOWER, and Mr. DOMINICK conferees on the part of the Senate.

Mr. STENNIS. Mr. President, I wish to express the special thanks of the committee—especially myself, if I may—for the splendid work done on this bill by our staff director, Mr. T. Edward Braswell, Jr., who I think is one of the most valuable men we have found on the Hill; also to Mr. R. James Woolsey, who is a new member of our staff. He has been here since January and has done an amazing job of getting a grasp on this matter. Unfortunately, he is ill at this time. He rendered very fine service.

I wish to thank and commend Mrs. Maurine Dantzic, one of our fine secretaries, for the tremendous amount of work of the highest order that she performed.

I extend special thanks to the senior Senator from Maine (Mrs. SMITH) for her unfaltering efforts, attendance, work, and counsel in connection with this bill. I appreciate the cooperation of the members of the committee and the Members of the Senate.

I yield the floor.

TRIBUTE TO SENATOR STENNIS AND OTHERS ON PASSAGE OF DRAFT EXTENSION

Mr. MANSFIELD. Mr. President, commending the distinguished Senator from Mississippi (Mr. STENNIS) with any words at this time would be most inadequate. He understands, I am confident just how deeply the Senate appreciates the magnificent task he has performed in connection with this bill. Few times in the past has an issue undergone such close and prolonged examination in this body. In this instance, that examination was probably well worthwhile. I believe the able chairman of the Committee on Armed Services would agree. He handled this bill exceedingly well. His understanding of every facet of each issue presented was outstanding. His advocacy was remarkable. Senator STENNIS has once again demonstrated to the Senate and to the Nation the type of legislative genius and endurance that has marked him for now and for all time.

Others, too, made notable contributions. The distinguished senior Senator from Maine (Mrs. SMITH), extended her always gracious and always splendid cooperation. She again served magnificently as the ranking minority member of the committee. The other members of the committee deserve equally high praise.

To the other side of so many issues raised, the Senator from Alaska (Mr. GRAVEL) contributes with great competence. The distinguished Senators from Oregon (Mr. HATFIELD) and South Dakota deserves high praise as well. The Senator from California (Mr. CRANSTON) and the Senator from Massachusetts (Mr. KENNEDY) are also to be singled out. Actually the list seems endless.

May I say, to all of those Senators joining the debate, offering amendments, and submitting recommendations on the matter of Selective Service, the war, and all of the issues which in turn arise, I extend the grateful thanks of the leadership. All in all, the consideration of this issue was in the best traditions of the Senate. I think we can all share the credit.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the following bill and joint resolutions, in which it requested the concurrence of the Senate:

H.R. 9270. An act making appropriations for agriculture-environmental and consumer protection programs for the fiscal year ending June 30, 1972, and for other purposes;

H.J. Res. 742. A joint resolution making continuing appropriations for the fiscal year 1972, and for other purposes; and

H.J. Res. 744. A joint resolution making an appropriation for the fiscal year 1972 for the Department of Agriculture, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled joint resolution (H.J. Res. 556) providing for the observance of "Youth Appreciation Week" during the 7-day period beginning the second Monday in November of 1971.

The PRESIDENT pro tempore subsequently signed the enrolled joint resolution.

HOUSE BILL AND JOINT RESOLUTIONS REFERRED

The following bill and joint resolutions were severally read twice by their titles and referred to the Committee on Appropriations:

H.R. 9270. An act making appropriations for agriculture-environmental and consumer protection programs for the fiscal year ending June 30, 1972, and for other purposes;

H.J. Res. 742. A joint resolution making continuing appropriations for the fiscal year 1972, and for other purposes; and

H.J. Res. 744. A joint resolution making an appropriation for the fiscal year 1972 for the Department of Agriculture, and for other purposes.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS UNTIL MIDNIGHT TONIGHT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be permitted to file reports until midnight tonight.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 142, H.R. 7109. I do this so that the bill will become the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7109) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Aeronautical and Space Sciences with an amendment, to strike out all after the enacting clause and insert:

That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration:

(a) For "Research and development", for the following programs:

(1) Apollo, $612,200,000;

(2) Space flight operations, $672,775,000;

(3) Advanced missions, $1,500,000;

(4) Physics and astronomy, $110,300,000;

(5) Lunar and planetary exploration, $291,500,000;

(6) Space applications, $185,000,000;

(7) Launch vehicle procurement, $146,100,000;

(8) Aeronautical research and technology, $110,000,000;

(9) Space research and technology, $75,105,000;

(10) Nuclear power and propulsion, $70,720,000 of which $58,000,000 is to be used only for NERVA engine development and related nuclear propulsion activities;

(11) Tracking and data acquisition, $264,000,000;

(12) Technology utilization, $4,000,000;

(b) For "Construction of facilities," including land acquisitions, as follows:

(1) Modernization of the 40 x 80-foot Wind Tunnel, Ames Research Center, $6,500,000;

(2) Centaur Modifications to Titan III launch area, John F. Kennedy Space Center, $10,700,000;

(3) Alterations to Launch Complex 17, John F. Kennedy Space Center, $4,500,000;

(4) Space Shuttle Facilities, as follows:

Main engine sea level test stands (2), Mississippi Test Facility, $11,000,000.

Main engine altitude test facility, Air Force Arnold Engineering Development Center, $2,000,000.

Auxiliary propulsion test facilities, undesignated location, $1,500,000.

Thermal protection system development facilities, Ames Research Center, $3,000,000, Langley Research Center, $500,000. Manned Spacecraft Center, $1,200,000, Undesignated location, $800,000;

(5) Power Plant Replacements, Goldstone, Calif., $370,000 and Santiago, Chile, $230,000;

(6) ATS Ground Station, Western Europe, $500,000;

(7) Facility rehabilitations and modifications, various locations, $10,000,000;

(8) Facility Planning and Design, $3,500,000.

(c) For "Research and program management," $681,350,000, of which not to exceed $517,916,000 to be available for personnel and related costs.

(d) Appropriations for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used for construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Astronautics of the House of Representatives and the Committee on Aeronautical and Space Sciences of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) No part of the funds appropriated pursuant to subsection 1(c) for maintenance, repairs, alterations, and minor construction shall be used for the construction of any new facility the estimated cost of which, including collateral equipment, exceeds $100,000.

(h) No part of the funds appropriated pursuant to subsection (a) of this section may be used for grants to any nonprofit institution of higher learning unless the Administrator or his designee determines at the time of the grant that recruiting personnel of any of the Armed Forces of the United States are not being barred from the premises or property of such institution except that this subsection shall not apply if the Administrator or his designee determines that the grant is a continuation or renewal of a previous grant to such institution which is likely to make a significant contribution to the aeronautical and space activities of the United States. The Secretary of Defense shall furnish to the Administrator or his designee within sixty days after the date of enactment of this Act and each January 30 and June 30 thereafter the names of any nonprofit institutions of higher learning which the Secretary of Defense determines on the date of each such report are barring such recruiting personnel from premises or property of any such institution.

SEC. 2. Authorization is hereby granted whereby the total of any of the amounts prescribed by paragraphs (1), (2), (3), (4), (5), (6), and (7) of subsection 1(b) may, in the discretion of the Administrator of the National Aeronautics and Space Administration, be varied upward of 5 per centum to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 3. Not to exceed one-half of 1 per centum of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (8) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of thirty days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Astronautics of the House of Representatives and to the Committee on Aeronautical and Space Sciences of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 4. (a) Notwithstanding any other provision of the Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Astronautics or the Senate Committee on Aeronautical and Space Sciences.

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by sections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(b) Nothing in this section shall be construed to authorize the expenditure of amounts for personnel and related costs pursuant to section 1(c) to exceed amounts authorized for such costs.

SEC. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 6. (a) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after the date of enactment of this Act and which involved the use of (or

assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institution from engaging in their duties or pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was committed, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to, or for the direct benefit of, such individual under any of the programs authorized by the National Aeronautics and Space Act of 1958, the funds for which are authorized pursuant to this Act. If an institution denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such individual subsequently attends shall deny for the remainder of the two-year period any further payment to, or for the direct benefit of, such individual under any of the programs authorized by the National Aeronautics and Space Act of 1958, the funds for which are authorized pursuant to this Act.

(b) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has willfully refused to obey a lawful regulation or order of such institution after the date of enactment of this Act, and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years, any further payment to, or for the direct benefit of, such individual under any of the programs authorized by the National Aeronautics and Space Act of 1958, the funds for which are authorized pursuant to this Act.

(c)(1) Nothing in this Act shall be construed to prohibit any institution of higher education from refusing to award, continue, or extend any financial assistance under any such Act to any individual because of any misconduct which in its judgment bears adversely on his fitness for such assistance.

(2) Nothing in this section shall be construed as limiting or prejudicing the rights and prerogatives of any institution of higher education to institute and carry out an independent, disciplinary proceeding pursuant to existing authority, practice, and law.

(3) Nothing in this section shall be construed to limit the freedom of any student to verbal expression of individual views or opinions.

Sec. 7. Section 206 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2476), is amended as follows: (1) subsection (a) is hereby repealed, and (2) subsections (b), (c), and (d) are renumbered as subsections (a), (b), and (c), respectively.

Sec. 8. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1972".

MARITIME PROGRAMS AUTHORIZATION, 1972—CONFERENCE REPORT

Mr. LONG. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4724) to authorize appropriations for certain maritime programs of the Department of Commerce.

I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. WEICKER). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of June 23, 1971, p. 21604, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. GRIFFIN. Mr. President, the conference report presented by the distinguished Senator from Louisiana is of special interest to the junior Senator from Michigan.

One of the amendments to the House bill, retained in conference, authorizes the Secretary of Commerce to repair, recondition, equip as necessary, and maintain in good repair, a vessel, the *Allegheny*. This vessel was turned over as Navy surplus property to the Great Lakes Maritime Academy, a division of the Northwestern Michigan College, for training purposes.

Mr. President, I am pleased that the conference agreement not only authorizes $170,000 to rehabilitate the vessel, but also contemplates that the vessel will hereafter be maintained in good repair.

The conference report should be adopted.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

SENATE JOINT RESOLUTION 118—TEMPORARY EXTENSION OF THE AUTHORITY CONFERRED BY THE EXPORT ADMINISTRATION ACT OF 1969

Mr. MANSFIELD. Mr. President, I send to the desk a joint resolution and ask unanimous consent for its immediate consideration. It has been cleared all around.

The PRESIDING OFFICER (Mr. WEICKER). Is there objection?

There being no objection, the joint resolution (S.J. Res. 118) to provide a temporary extension of the authority conferred by the Export Administration Act of 1969 was read the first time by title, and the second time at length, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 14 of the Export Administration Act of 1969 is amended by striking out "June 30, 1971" and inserting "October 31, 1971".

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. MANSFIELD. Mr. President, the reason for this is that it expires on June 30. Therefore, it is necessary to have this temporary extension at this time. I repeat that, to the best of my knowledge, it has been cleared all around.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, for the information of the Senate, the distinguished assistant majority leader, the Senator from West Virginia, will shortly make some unanimous-consent requests relative to measures which will be brought up next week. This has been cleared all around. We did not do so during the course of the discussion of the bill just passed because we did not want to delay the efforts of the Senate as a whole.

SHARE-THE-POVERTY BILL

Mr. LONG. Mr. President, an editorial published in the Augusta Chronicle of Friday, June 18, 1971, pointed out some of the dangers involved in H.R. 1, the so-called family assistance plan. The general theory of the editorial is that we should be trying to put people to work rather than encouraging more and more people to go on welfare. It is a very thoughtful editorial, and I think the Senators would be well advised to consider it carefully.

I ask unanimous consent that the editorial entitled "Share-the-Poverty Bill," be printed in the RECORD.

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

SHARE-THE-POVERTY BILL

Action by the House Ways and Means Committee to raise the minimum income for a family of four, under the President's welfare reform proposal, from $1,600 to $2,400, demonstrates dramatically a basic objection made by opponents of that proposal.

Start giving people minimum incomes as a matter of legal right and at the expense of the taxpayers, and you make private access to the Treasury of the United States potentially uncontrollable. When congressmen can increase the amount 50 per cent—from $1,600 to $2,400—they pave the way for further increases at some later date by another 50 per cent to $3,600, by a second 50 per cent to $5,400, and a third 50 per cent to $8,100. Where does it end?

And if you think for a moment congressmen would resist the pressure from people who want more spending money and who use the threat of their voting strength to force passage of ever-larger give-away bills, then you haven't taken a recent look at what has happened to the federal budget, deficit spending and debt in the past few years.

Examine impartially, for a moment, what happens when federal deficit financing puts billions of dollars more in circulation by just issuing money, not representing any increased production in the fields, ranches, the forests, mills, shops, stores, laboratories and service organizations of this country.

Inflation, already a problem, would roar ahead on an unprecedented scale. Millions of Americans now barely above the poverty line would, as a direct and inevitable result, became a part of the deprived sector. The surging inflation also would make minimum incomes themselves, no matter at what level, inadequate. So, as night follows day, political pressure would make irresistible a continuing series of successive moves to raise the tax-paid minimum incomes, over and over and over.

As the juggernaut of inflation moved on relentlessly, savings would be destroyed, people on fixed retirement income would become virtual paupers and the entire structure of our government could be forced into a totalitarian socialistic straitjacket.

This is not to say that poor families do not need higher income. They do, and recognition that they need something better than the present hopeless welfare system is something The Chronicle has repeatedly emphasized.

What is needed is jobs at adequate wages. This goal is not reached, but is defeated, by pouring billions of dollars into ever-mounting doles. It is reached by strengthening the economy—setting up favorable conditions for business, industry, agriculture, the professions and the services, so that as they raise their productiveness they need and will train more and more employes.

Such an approach to the economy affects government policies on taxation, excessive regulation, labor, bureaucratic dictatorship and tariffs. On many of these issues, large numbers of Americans have been persuaded by subtle appeal to humanitarian instincts to close their eyes to the total picture, and adopt socialistic positions.

The fact remains, however, that the way to attack poverty, for persons capable of productive work—no matter how humble—is to make it possible for them to get jobs. Tax-paid welfare should be reserved for those incapable of performing, or unable to find, useful work of any kind.

(The remarks of Mr. ROTH when he introduced Senate Joint Resolution 119 and the ensuing colloquy are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

(The remarks of Mr. BYRD of Virginia when he introduced S. 2158 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

TRIBUTE TO SENATOR STENNIS OF MISSISSIPPI

Mr. ALLEN. Mr. President, there is no more lofty word in the English language than the word "patriot."

I know of no person in the Senate or in the entire country who better deserves to be called patriot than the distinguished Senator from Mississippi (Mr. STENNIS).

The draft extension bill has been before the Senate since May 6, 1971. It has been subjected to a barrage of amendments, germane and nongermane. Each day that the bill has been before the Senate, the distinguished Senator from Mississippi (Mr. STENNIS), has stood on this floor and has either approved and accepted amendments or has taken issue with them and engaged in high-level debate with respect to those amendments. Always he treated opposition Senators with the greatest of courtesy and patience.

It has been a herculean feat which has been performed by the distinguished Senator from Mississippi (Mr. STENNIS). He is entitled to the thanks of a grateful Nation for the work that he has done with respect to the bill.

He took the position—a position with which the junior Senator from Alabama is in complete agreement—that the draft affords the best method of placing upon the young men of this country the duty and the obligation to defend their country. He felt, as the junior Senator from Alabama feels, that the draft is necessary for the security of this Nation.

The distinguished Senator from Mississippi (Mr. STENNIS) stood like a stone wall against the onslaughts that were made against the bill, either by amendment, by extended debate, or by a filibuster, if you please, Mr. President.

He thought this bill was necessary for the defense of this country. He was so anxious to see it enacted into law by July 1, the date of the expiration of the draft, that he was willing to abandon a tradition of 25 years standing to vote to bring debate on this bill to a close. Above all else he placed the security of the Nation.

Men like this great Senator are the men who have made the U.S. Senate the greatest deliberative body in the world. Through membership in such a body, Senators stand in the reflected luster of this great Senator.

So, the junior Senator from Alabama feels that he would be remiss in his duty as a Senator from the State of Alabama and as a Senator of this great Nation if he did not on behalf of the people of Alabama and the people of this Nation commend the distinguished Senator from Mississippi (Mr. STENNIS) for the patriotism, the dedication, and the devotion to duty that he has shown throughout the consideration of this bill.

Incidentally, it was a great feat and a great task that he entered upon, and today saw it move further along toward final enactment. So, on behalf of the people of the State that I have the privilege of representing, I salute the distinguished Senator from Mississippi (Mr. STENNIS) for the great work he has done for the Nation in the passage of the draft extension bill.

Mr. BYRD of Virginia. Mr. President, I join with the distinguished Senator from Alabama in his comments in regard to the chairman of the Committee on Armed Services.

It was 7 weeks ago today that debate began on the extension of the Selective Service Act.

During those 7 weeks, the Senator from Mississippi (Mr. STENNIS) has been on the floor almost constantly during that entire period of time.

More than 230 amendments were offered to the bill under consideration. The Senator from Mississippi found it necessary to discuss in some detail all of the amendments which were called up. While all of the 230 amendments were not called up, a great many were. They were detailed and difficult amendments in many cases.

The Senator from Mississippi did a masterful job in floor managing this legislation.

I join with the distinguished Senator from Alabama in paying tribute to the distinguished chairman of the Committee on Armed Services.

I feel that he did an outstanding job. I think that he displayed not only great diligence and great ability but I also feel that he displayed great physical stamina to have devoted as much time and energy as he did in the handling of this legislation.

I salute him. He is a great Senator.

COMMENDATION OF SENATOR STENNIS AND EXPLANATION OF VOTE FOR CLOTURE BY SENATOR ERVIN

Mr. ERVIN. Mr. President, I would like to say that during my 17 years in the Senate I have never seen such a magnificent job done by any floor manager of a bill as has been done by the able and distinguished Senator from Mississippi (Mr. STENNIS).

Throughout the 8 weeks the Senate has had the proposal before it to extend the draft, he has demonstrated the greatest intellectual stature and the greatest physical stature that can be found, a spirit of tact and diplomacy, and he has demonstrated as profound wisdom as any individual could display. The entire Nation is his debtor.

Also I would like to say that I marked my 17th year in the Senate the 11th day of this month, and on the vote to bring to an end debate on the measure the Senate just passed I succumbed for the first time to the temptation to vote for cloture. I did so in my honest judgment that the security of this Nation was at stake in the consideration and enactment of this bill.

I think that we live in a precarious world and for sometime we will have to maintain a fairly large armed force if we are going to protect our freedom and our independence.

I trust, however, I will not be tempted at any time in the future to ever vote for cloture again. I have steadfastly refused to vote for cloture where mere temporary policies of a domestic nature are involved, and I do not anticipate we are going to have another situation at any time in the near future where I am going to feel national security is at stake.

I have been confronted with a problem as the distinguished Senator from California (Mr. TUNNEY), who is now presiding over the Senate, knows, in the effort of our Subcommittee on Constitutional Rights to determine the extent of Army surveillance of civilians.

I have found a great reluctance on the part of the Department of the Army to inform the committee on anything that the committee has not already established by other testimony.

A few years ago we had a great controversy in this country about who promoted Major Perez. I happened to sit on the Armed Services Committee that conducted three separate investigations of that question. The counsel for the Army who had charge of presenting the Government's case in the investigations did not believe the American people, or the Congress for that matter, were entitled to know much about what was going on in the executive branch of the Government, and would not cooperate or disclose anything in the first two hearings.

The third hearing took place after former Governor Brucker of Michigan became counsel. He was a very wise and knowledgeable defense attorney and he came in and laid all the cards facing upward on the table and made clear that the question of the promotion of Major

Perez, which had convulsed the country for several years, had been the result not of any disloyalty to our Government on the part of any official, but, on the contrary, was the result of having no regulations to govern the situation in which Major Perez found himself.

I think we need a little more cooperation on the part of the executive branch of the Government in the disclosure of information.

The Subcommittee on Separation of Powers is going to begin hearings in the latter part of next month on a bill introduced by the able Senator from Arkansas (Mr. FULBRIGHT) which would regulate the use of executive privilege and restrict the claim of executive privilege to the President himself.

I have seen instances in committees where even file clerks in the executive branch of the Government plead executive privilege. I do not think that kind of practice should be tolerated in a free society which is based upon the theory that the people are entitled to know what their Government is doing.

I yield the floor.

TRIBUTE TO SENATOR STENNIS AND MEMBERS OF THE ARMED SERVICES COMMITTEE

Mr. GRIFFIN. Mr. President, I speak not only for myself but for all the Members of the Senate on this side of the aisle in joining in the tributes that have been paid to the distinguished manager of the bill, the Senator from Mississippi (Mr. STENNIS), for the great leadership that he has provided through these long 7 weeks. His leadership certainly has been in the finest tradition of the Senate, and he has set an example for each and every Senator in the way he has conducted himself throughout this long ordeal.

He is a master of the subject area of the legislation. He demonstrated that he was a master of this particular bill. Throughout the deliberations, he was fair and patient, persuasive and logical, as well as very skillful in presenting the arguments of the majority of the committee.

The Senate and the country are greatly indebted to him for his great sacrifice and his great leadership in managing the bill, and I join in the salute that has been extended to him.

Also I want to pay respects and extend appreciation for the contributions of the ranking minority member of the committee, the Senator from Maine (Mrs. SMITH), and all the other members of the committee, both on the majority and minority sides, who contributed a great deal during this long debate.

TRIBUTE TO SENATOR STENNIS OF MISSISSIPPI

Mr. CRANSTON. Mr. President, the hour is late and I shall not, by my words or acts, detain the Senate, but I did not want this day to pass without joining in the comments other Senators have made about the tremendous leadership displayed by the distinguished Senator from Mississippi (Mr. STENNIS), the chairman of the Armed Services Committee, through the many weeks that we have been wrestling with the draft bill.

The Senator's tremendous parliamentary skill, his marvelous patience, and his constant courtesy have been of great benefit to all Senators as we have considered the bill.

Mr. President, I have been on the opposite side from the distinguished Senator throughout a great portion of the debate and the actions taken thereon during recent weeks, but he was always pleasant, always helpful, always totally knowledgeable, always a skillful adversary but always a very helpful one. There were many times when he sought accommodation. There were many times when he helped work things out. He was always looking for a way to achieve the objectives of whatever Senator was offering an amendment—myself, or someone else—in a way if possible that would achieve the objectives without violating what the distinguished Senator from Mississippi thought should be in the bill. Many provisions are in there now that would not have been there, had he not found a way to accommodate his own views with those who brought up amendments that at first he did not particularly appreciate.

Mr. President, in closing, I want to say what a great pleasure it has been to work with the Senator from Mississippi on this bill as well as on so many other matters that have come before the Senate.

TRIBUTE TO SENATOR STENNIS

Mr. TUNNEY. Mr. President, I would like to join in the encomiums that have been expressed this afternoon regarding the way in which the Senator from Mississippi handled the selective service legislation that the Senate has just voted on.

I myself had an opportunity to offer two amendments, one of which the Senator from Mississippi opposed, and one of which he accepted. On the one which he opposed, I recall that I got eight votes, and on the one he accepted I recall I received a unanimous vote. So I recognize him as being a master legislator but one also who understood thoroughly the subject matter of the legislation better than any other Senator.

I think it is a great tribute to the Senate of the United States to have such a person in a position where he can handle legislation as the Senator from Mississippi has over the past several weeks.

TRIBUTE TO SENATOR STENNIS

Mr. BYRD of West Virginia. Mr. President, I would like to join with my colleagues who have very properly taken the floor this afternoon to compliment the distinguished junior Senator from Mississippi (Mr. STENNIS) on his handling of a very, very difficult piece of legislation, H.R. 6531, to extend the Military Selective Service Act.

The able junior Senator from Alabama, in his statement commending the Senator from Mississippi (Mr. STENNIS), aptly referred to the word "patriot." Mr. President, I would like to suggest another good word in this context as we offer our encomiums to the Senator from Mississippi. Many times I have heard a man—whom I considered the greatest Senator in my time, a man whom I would like to think of as my mentor in the Senate, the late departed and beloved Senator Richard B. Russell—refer to the words of one of the greatest of Americans—certainly the greatest in the minds of many people—Robert E. Lee, when he said "duty is the sublimest word in the English language."

I believe that Senators would join unanimously with me in saying that we, for the past several weeks, beginning with the date of May 6, 1971, have witnessed an outstanding example of dedication to duty as we have observed the extraordinary skill and effort displayed by the junior Senator from Mississippi (Mr. STENNIS). Throughout these many weeks, he has carried the burden, not only during the "heat of the day" but also from early morning until late evening, day after day, week after week, and he has carried that burden, I think I should say, singlehandedly.

I have marveled at his patience under extremely difficult circumstances—trying, grueling, sometimes cruel circumstances—through the long hours, under the great tensions. I have admired his courtesy, his equanimity, his firmness, and his complete grasp of the subject matter, and I am grateful that we have in the U.S. Senate this outstanding man from the State of Mississippi. I have always respected him for his character, his integrity, his honesty, his forthrightness, his patience, and his charitableness, and all these attributes came shining through as he carried the heavy and onerous load from week to week until the final vote came. The Senate owes him a debt; the Nation owes him a debt; and I am privileged to join with my colleagues in their tributes to him this afternoon.

May I say, too, that those Senators who have opposed the Senator from Mississippi from time to time with their amendments are likewise to be congratulated on their courtesy and on their cooperation. The leadership on this side of the aisle—and I join with the majority leader; the assistant Republican leader has already spoken—in expressing gratitude, not only to the Senator from Mississippi, the manager of the bill, but also to all Senators who have cooperated in such a fine way, as we have from time to time sought to work out agreements and expedite the business of the Senate with regard not only to the selective service bill, but also with respect to the other measures which have been acted upon from day to day.

So, Mr. President, we have seen this exceedingly fine demonstration on the part of a distinguished Senator—a demonstration of superb tactics, courage, and expertise which will continue to be an inspiration for me and others to try to live up to.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with statements therein limited to 3 minutes.

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

PETITIONS

Petitions were laid before the Senate by the President pro tempore and referred as indicated:

A joint resolution of the Legislature of the State of Maine; to the Committee on Foreign Relations:

"JOINT RESOLUTION MEMORIALIZING CONGRESS IN RESPECT TO PRISONERS OF THE VIETNAM WAR

"We, your Memorialists, the Senate and House of Representatives of the State of Maine assembled in the regular session of the One Hundred and Fifth Maine Legislature, do respectfully represent that:

"Whereas, the Governments of the United States and North Vietnam are parties to the Geneva Convention; and

"Whereas, it is the intent of the Geneva Convention that the high contracting parties to the convention insure the proper and humanitarian treatment of prisoners; and

"Whereas, the Government of North Vietnam has not conformed to the terms of the Geneva Convention and has shown a blatant disregard for the feelings of the families of prisoners held; now, therefore, be it

"*Resolved,* That we, your Memorialists, speaking for and on behalf of the people of the State of Maine, recommend and urge that the Congress of the United States take all possible steps to gain the release of names, addresses and state of health of every captive American; repatriate or remove to a neutral country all sick and wounded prisoners; permit the International Red Cross or some other humanitarian organization to monitor the prison camps and help minister to the needs of the captives; and abide by the Geneva Convention, which they have signed, in the sending and receiving of prisoner mail, including shipments of food, clothing, medical supplies and educational and recreational materials and to bring the weight of world public opinion to bear on the Government of North Vietnam to require them to live up to the terms of the Geneva Convention which our government has signed in good faith and with which we are conforming; and be it further

"*Resolved,* That copies of this resolution, duly authenicated by the Secretary of State, be immediately transmitted by the Secretary of State to the Honorable Richard M. Nixon, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to the members of said Senate and House of Representatives from this State; and be it further

"*Resolved,* That the Maine Legislature also express, on behalf of the people of Maine, our sympathy, moral support and great respect for the unfailing courage of our Americans who are prisoners of war or missing in action and their patient and courageous families.

"House of Representatives, Read and Adopted, June 8, 1971.

"In Senate Chamber, Read and Adopted in Concurrence, June 9, 1971."

A joint resolution of the Legislature of the State of Florida; to the Committee on Labor and Public Welfare:

"SENATE MEMORIAL No. 1357

"A memorial to the United States Senate expressing the interest of the legislature in the establishment of a National Cancer Authority

"Whereas, more Americans died, the victims of cancer, in 1969 than did in the 4 years of World War II, and

"Whereas, of the 200 million Americans alive today, 50 million will develop cancer and approximately 34 million will die of it, and

"Whereas, cancer claims the lives of more children under 15 years of age than any other illness, and

"Whereas, in 1969, for every man, woman, and child in the United States, our federal government spent only 89c on cancer research as compared to $19 on foreign aid, $19 on the space program, and $125 on the war in Vietnam, and

"Whereas, the tragedy of the disease of cancer has either directly or indirectly affected millions of Americans, and

"Whereas, a nation as great as the United States cannot afford to lose such a large portion of its population to any disease without an all out effort to conquer that disease; Now Therefore Be It Resolved by the Legislature of the State of Florida:

"That the United States Senate is hereby notified of the great interest and concern felt by the citizens of Florida for the need for an all out war in cancer.

"Be It Further Resolved that the United States Senate is respectfully urged to regard the establishment of a National Cancer Authority as a priority measure, and further, to provide adequate funding for an "all out war" on cancer.

"Be It Further Resolved that copies of this Memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of Florida's Congressional Delegation."

A resolution adopted by the Iowa Development Commission, Des Moines, Iowa, praying for the enactment of legislation relating to the sharing of tax revenues; to the Committee on Finance.

A resolution adopted by the Marine Corps Reserve Officers' Association, Washington, D.C., in opposition to proposed legislation relating to the commitment of Armed Forces of the United States; to the Committee on Foreign Relations.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED AMENDMENT TO THE BUDGET FOR THE VETERANS ADMINISTRATION (S. DOC. NO. 92–24)

A communication from the President of the United States submitting an amendment to the request for appropriations transmitted in the budget for the fiscal year 1972 in the amount of $5,660,000 for the Veterans Administration (with accompanying papers); to the Committee on Appropriations.

REPORT OF PROPOSED TRANSFER OF RESEARCH AND DEVELOPMENT FUND

A letter from the Deputy Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on the proposed transfer of $1,500,000 of "Research and Development" funds appropriated to that Administration (with an accompanying paper); to the Committee on Aeronautical and Space Sciences.

REPORT ON APPROVAL OF LOAN TO CONSTRUCT CERTAIN TRANSMISSION FACILITIES

A letter from the Acting Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, on approval of a loan to Alabama Electric Cooperative, Inc., of Andalusia, Ala., to construct certain transimssion and generation facilities (with accompanying papers); to the Committee on Appropriations.

REPORT ON NATIONAL ATMOSPHERIC SCIENCES PROGRAM

A letter from the Director, Office of Science and Technology, transmitting, pursuant to law, a report on the national atmospheric sciences program, fiscal year 1972 (with an accompanying report); to the Committee on Commerce.

REPORT ON PROPOSED ACTION RELATING TO CIGARETTE ADVERTISING

A letter from the Chairman, Federal Trade Commission, reporting, pursuant to law, that, on or after July 1, 1971, that Commission proposes to take certain action relating to cigarette advertising (with accompanying papers); to the Committee on Commerce.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on lengthy delays in settling the costs of health services furnished under medicare, Social Security Administration, Department of Health, Education, and Welfare, dated June 23, 1971 (with an accompanying report); to the Committee on Government Operations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, unfavorably, without amendment:

S. 390. A bill to amend the Higher Education Act of 1965, in order to provide for a U.S. Foreign Service scholarship program (Rept. No. 92–236).

By Mr. FULBRIGHT, from the Committee on Foreign Relations, with amendments:

S. Res. 140. A resolution authorizing special supplementary expenditures by the Committee on Foreign Relations for an inquiry and investigation pertaining to the making of policy relating to U.S. involvement in Southeast Asia. Referred to the Committee on Rules and Administration.

By Mr. BYRD of West Virginia, for Mr. FULBRIGHT, from the Committee on Foreign Relations, with amendments:

S. J. Res. 115. A joint resolution instructing the Secretary of State to call for an international moratorium of 10 years on the killing of all species of whales (Rept. No. 92–239).

By Mr. KENNEDY, from the Committee on Labor and Public Welfare, with amendments:

S. Con. Res. 6. A concurrent resolution to express the sense of Congress relative to certain activities of Public Health Service Hospitals and outpatient clinics (Rept. No. 92–238).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

James R. Laffoon, of California, to be U.S. marshal for the southern district of California; and

John Stevens Lieb, of Wisconsin, to be an examiner in chief, U.S. Patent Office.

MARITIME PROGRAMS AUTHORIZATION, FISCAL YEAR 1972—CONFERENCE REPORT (S. REPT. NO. 92-237)

Mr. LONG, from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4724) to authorize appropriations for certain maritime programs of the Department of Commerce, submitted a report, which was ordered to be printed.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mrs. SMITH (for herself and Mr. STENNIS) by request:

S. 2139. A bill to authorize a treatment and rehabilitation program for drug dependent members of the Armed Forces. Referred to the Committee on Armed Services.

By Mr. BAYH (for himself, Mr. GRIFFIN, and Mr. HRUSKA):

S. 2140. A bill to amend the Narcotic Addict Rehabilitation Act of 1966, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. CRANSTON (for himself, Mr. HARRIS, Mr. NELSON, and Mr. TUNNEY):

S. 2141. A bill to authorize the establishment of the Desert Pupfish National Monument in the States of California and Nevada, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. STEVENSON:

S. 2142. A bill to amend the Sugar Act of 1948 to prescribe minimum wages and conditions of employment for farm workers, and for other purposes. Referred to the Committee on Finance.

By Mr. INOUYE:

S. 2143. A bill to amend the District of Columbia Traffic Act, 1925, to provide for the removal, impoundment, or immobilization of motor vehicles. Referred to the Committee on the District of Columbia.

S. 2144. A bill to prohibit the withdrawal of merchandise from a customs bonded warehouse for exportation pursuant to retail sales unless such warehouse is located in close proximity to a port, airport, or border crossing station. Referred to the Committee on Finance.

S. 2145. A bill to amend chapter 19 of title 38, United States Code, to require that members of the uniformed services be covered by Servicemen's Group Life Insurance during any period they are assigned to duty in a combat zone. Referred to the Committee on Veterans' Affairs.

By Mr. HUMPHREY:

S. 2146. A bill to require community mental health centers and hospitals and other medical facilities of the Public Health Service to provide needed treatment and rehabilitation programs for drug addicts and other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. MATHIAS:

S. 2147. A bill for the relief of Marie M. Ridgely. Referred to the Committee on the Judiciary.

By Mr. MATHIAS (for himself, Mr. BAYH, Mr. COOK, Mr. BEALL, Mr. BROOKE, Mr. CANNON, Mr. CASE, Mr. COOPER, Mr. CRANSTON, Mr. EAGLETON, Mr. ERVIN, Mr. FONG, Mr. GAMBRELL, Mr. HOLLINGS, Mr. HUMPHREY, Mr. INOUYE, Mr. JAVITS, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MOSS, Mr. MUSKIE, Mr. PERCY, Mr. STEVENS, Mr. TAFT, Mr. TOWER, Mr. TUNNEY, and Mr. WILLIAMS):

S. 2148. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide for a comprehensive grant program for the prevention of juvenile delinquency and for the rehabilitation of juvenile delinquents. Referred to the Committee on the Judiciary.

By Mr. PEARSON:

S. 2149. A bill to authorize the establishment of the Tallgrass Prairie National Park, in the State of Kansas, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. PASTORE:

S. 2150. A bill to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Referred to the Joint Committee on Atomic Energy.

By Mr. PASTORE (for himself and Mr. BENNETT) by request:

S. 2151. A bill to amend section 182 of the Atomic Energy Act of 1954, as amended, and for other purposes; and

S. 2152. A bill to amend the Atomic Energy Act of 1954, as amended, to require applicants for licenses to construct and operate utilization or production facilities to obtain a site authorization from the Atomic Energy Commission and to provide for a public hearing to be held in proceedings for site authorizations, and for other purposes. Referred to the Joint Committee on Atomic Energy.

By Mr. ANDERSON (for himself, Mr. SCOTT, and Mr. BIBLE):

S. 2153. A bill to establish a National Historical Museum Park, to designate the study center authorized under section 2(a) of the act of August 30, 1961, as the Dwight D. Eisenhower Institute for Historical Research. Referred to the Committee on Rules and Administration.

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

S. 2154. A bill to establish a program of interim emergency financial assistance to institutions of higher education having the greatest need for such assistance, and to determine means of improving the financial position of all such institutions and their future needs for assistance. Referred to the Committee on Labor and Public Welfare.

By Mr. HUMPHREY:

S. 2155. A bill to establish a Drug Cure and Control Authority to coordinate Federal agency programs relating to drug abuse treatment, education, rehabilitation and law enforcement. Referred to the Committee on Labor and Public Welfare.

By Mr. ERVIN:

S. 2156. A bill to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of the polygraph for certain purposes. Referred to the Committee on the Judiciary.

By Mr. FULBRIGHT (by request):

S. 2157. A bill to authorize the appropriation of $1,300,000 as an ex gratia payment to the City of New York to assist in defraying the extraordinary and unprecedented expenses incurred during the 25th General Assembly of the United Nations. Referred to the Committee on Foreign Relations.

By Mr. BYRD of Virginia:

S. 2158. A bill to designate certain lands in the Shenandoah National Park, Virginia, as wilderness. Referred to the Committee on Interior and Insular Affairs.

By Mr. MCINTYRE:

S.J. Res. 117. A joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day." Referred to the Committee on the Judiciary.

By Mr. MANSFIELD (for himself, Mr. MONDALE and Mr. PACKWOOD):

S.J. Res. 118. A joint resolution to provide a temporary extension of the authority conferred by the Export Administration Act of 1969. Considered and passed today.

By Mr. ROTH (for himself, Mr. ALLOTT, Mr. BAKER, Mr. BELLMON, Mr. BOGGS, Mr. BROCK, Mr. BUCKLEY, Mr. BYRD of Virginia, Mr. COOK, Mr. COTTON, Mr. DOLE, Mr. ERVIN, Mr. FANNIN, and Mr. MATHIAS):

S.J. Res. 119. A joint resolution to establish the National Commission on Executive Secrecy. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS and JOINT RESOLUTIONS

By Mrs. SMITH (for herself and Mr. STENNIS) by request:

S. 2139. A bill to authorize a treatment and rehabilitation program for drug dependent members of the Armed Forces. Referred to the Committee on Armed Services.

ARMED FORCES DRUG DEPENDENCY TREATMENT AND REHABILITATION ACT OF 1971

Mrs. SMITH. Mr. President, I send to the desk a bill to authorize a treatment and rehabilitation program for drug dependent members of the Armed Forces and request that it be referred to the appropriate committee for consideration.

I introduce this bill on behalf of myself and the Senator from Mississippi (Mr. STENNIS). The purpose of the proposed legislation is to authorize a treatment and rehabilitation program for drug dependent members of the Armed Forces and to permit treatment of former service members who are drug dependents by the Veterans' Administration or other responsible agencies.

Under the proposed legislation, the Secretary of Defense may require each member of the Armed Forces on active duty or on active duty for training to be examined to determine whether he is drug dependent. "Drug dependent" is defined to mean a state of physical or psychic dependency, or both, arising from the use of a controlled substance—as defined in section 102 of the Controlled Substances Act.

Any member identified as drug dependent will be required to undergo 30 days of treatment and rehabilitation unless medical authority determines in the interim that he is rehabilitated. Rehabilitation and treatment include hospitalization, inpatient and outpatient medical services, psychiatric treatment, counseling, vocational training, or other rehabilitation services. In this connection, the proposed legislation authorizes the Secretary of Defense to enter into agreements with the heads of other agencies for the provision of rehabilitation and treatment services and thus augments the treatment and rehabilitation resources available to the Armed Forces.

Specific statutory authority is provided for the involuntary retention of drug dependent members of the Armed Forces, if necessary, beyond the expiration of their terms of service for the purpose of providing treatment during this 30-day period and for further treatment thereafter, with their consent. Retaining them

for a 30-day period will insure that such service members are detoxified, if physically addicted, and provided treatment and rehabilitation services designed to assist in eliminating their psychic dependency on drugs. Those members whose terms of service have expired and who remain drug dependent at the end of this 30-day period will be discharged and referred to civilian agencies such as the Department of Health, Education, and Welfare and the Veterans' Administration to facilitate their further treatment, except that under regulations to be prescribed by the Secretary of Defense such members may consent to remain in the service for further treatment. Such referral is deemed desirable to permit agencies with long-term treatment facilities and capabilities to continue to rehabilitate the former member who remains drug dependent upon discharge.

Under the proposed legislation, the Secretary of Defense shall prescribe policies to encourage members of the Armed Forces who are drug dependent to voluntarily seek assistance for their dependency. For example, it is provided that such members, in addition to those identified as drug dependent through examination, shall not be subject to any disciplinary action under the Uniform Code of Military Justice, or be discharged under other than honorable conditions, solely on the basis of their having been examined and identified as drug dependent or having volunteered for treatment. However, it is provided that such members shall otherwise remain subject to the laws and regulations governing the conduct of members of the Armed Forces, and the proposed legislation does not otherwise alter the criteria for entitlement to benefits such as disability retirement.

The proposed legislation also provides that under regulations to be prescribed by the Secretary of Defense, section 802 of title 37, United States Code, concerning forfeiture of pay, need not apply to those members receiving treatment under this act.

Under the proposed legislation, former members of the Armed Forces now ineligible to receive treatment by the Veterans' Administration, because they have received an undesirable or punitive discharge will also be afforded the opportunity to obtain treatment for their drug dependency.

The proposed legislation also provides that members on active duty receiving treatment as drug dependent persons shall not be included in the computation of authorized military strengths. This will insure that authorized military strengths do not fall below levels required to maintain the national defense.

COST AND BUDGET DATA

The major expansion of Department of Defense programs for the prevention of drug abuse and for the identification and treatment of drug dependent members is estimated to cost $48 million annually, of which $14 million is available in the fiscal year 1972 budget. The costs of this proposed legislation are included in the costs of the overall defense program.

By Mr. BAYH (for himself, Mr. GRIFFIN, and Mr. HRUSKA):

S. 2140. A bill to amend the Narcotic Addict Rehabilitation Act of 1966, and for other purposes. Referred to the Committee on the Judiciary.

NARCOTIC ADDICT REHABILITATION AMENDMENTS OF 1971

Mr. BAYH. Mr. President, on behalf of myself and Senators GRIFFIN and HRUSKA I am introducing for appropriate reference, an administration bill which would expand treatment to include methadone maintenance for narcotic addicts committed for hospitalization and aftercare under the Narcotic Addict Rehabilitation Act of 1966. This proposal is entitled to a fair and impartial hearing to determine its efficacy. It is with this purpose in mind that we are pleased to introduce the bill, "Narcotic Addict Rehabilitation Amendments of 1971." I ask unanimous consent that a copy of the bill be printed in the RECORD at the conclusion of my remarks along with the accompanying letter from the Attorney General to the Vice President and a section-by-section analysis.

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

(See exhibits 1, 2, and 3.)

Mr. BAYH. Mr. President, this amendment would permit persons committed under the act, who meet certain criteria, to be enrolled in methadone maintenance programs during the duration of their commitment. Thus, it will make available an additional component which could arguably enhance the quality of the comprehensive individualized program which currently includes: Detoxification, withdrawal and abstinence, therapeutic community programs as well as individual psychotherapy, counseling, vocational guidance, job training, and other essential supportive services.

The Narcotic Addict Rehabilitation Act was enacted by the 89th Congress in response to the serious narcotic problem in this Nation during the mid-1960's. This act embraces the view that narcotic addiction is a disease that should be treated rather than viewed as a matter for punitive penal action. Its declaration of purpose in favor of civil commitment for treatment, in lieu of prosecution or sentencing, was a legislative landmark—a turning point in the Federal approach to drug addiction.

The act provides an alternative to imprisonment for narcotic addicts either charged with or convicted of specific Federal offenses. It provides for their commitment to treatment and rehabilitation for a certain period of time.

The amendment to the act which we are introducing today would expand the treatment modalities under this landmark program to include methadone maintenance. This would be accomplished by amending the definition of the word "treatment" wherever it appears in the act to include treatment which not only aims at terminating addiction, but that which seeks to control addiction.

There are no simple solutions to the epidemic of narcotic addiction that this Nation is experiencing. There are no panaceas—no magic wands. But when it comes to treatment for addicts many suggest that the least we should require is that a Federal program be truly comprehensive; namely, that it meets the needs of all addicts, including those who meet the criteria for methadone maintenance.

Although there has been no one satisfactory method developed for treating all narcotic addicts, methadone maintenance has been established as a relatively effective means of treatment for selected groups. It should be clear, however, that it is not a solution to every or even most forms of narcotic addiction.

Methadone is a narcotic similar to heroin and morphine. Methadone maintenance does substitute one form of addiction for another. Methadone may be abused. Therefore, under any circumstance, it should be rigidly controlled and its distribution limited to chronic addicts: Those who have had primary addiction to heroin for a number of years; who have had previous failures with other modes of treatment; and who are willing to consent to long-term participation in a program. This is not a program for young people only marginally involved with narcotics, or those addicts who succeed under the more traditional programs.

It is methadone blockage of the craving for heroin and the subsequent stabilization of the chronic addict which permits him to concentrate on rehabilitative efforts which other addicts pursue without maintenance. Perhaps for this group methadone may be the only feasible alternative. It is this proposition that I feel deserves considerable attention.

But methadone maintenance should not block or "smoke-screen" the effects of drug addiction on our society and the social conditions, such as racism and poverty, that spawn drug addiction. Methadone maintenance should not provide a "fix" for a complex social, political, medical, and psychological problem.

This amendment would establish methadone maintenance as a complement to other facets of treatment under NARA. Although its role should be a limited one, it could provide a useful tool in the arsenal of weapons in our offensive against this pestilence—narcotic addiction.

Although I am introducing this bill with Senator HRUSKA, I wish to make it clear that I may find changes in the bill which will appear to be desirable, both as to scope and language. However, I believe this bill deserves and will receive careful analysis and consideration from my colleagues.

EXHIBIT 1

S. 2140

A bill to amend the Narcotic Addict Rehabilitation Act of 1966 in order to increase treatment options available through judicial disposition of addicts, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Narcotic Addict Rehabilitation Amendments of 1971."

SEC. 2. Section 2901(d) of title 28, United States Code, Judiciary and Judicial Procedure, is amended to read as follows:

"(d) 'Treatment' includes confinement and treatment in an institution and under super-

vised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by eliminating his dependence on addicting drugs, or by controlling his dependence, and his susceptibility to addiction."

SEC. 3. Section 4251(c) of title 18, United States Code, is amended to read as follows:

"(c) 'Treatment' includes confinement and treatment in an institution and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by eliminating his dependence on addicting drugs, or by controlling his dependence, and his susceptibility to addiction."

SEC. 4. Section 301(b) of the Narcotic Addict Rehabilitation Act of 1966, 80 Stat. 1444, 42 U.S.C. 3411(b), is amended to read as follows:

"(b) 'Treatment' includes confinement and treatment in a hospital of the Service and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by eliminating his dependence on addicting drugs, or by controlling his dependence, and his susceptibility to addiction."

SEC. 5. This Act shall take effect immediately upon enactment. Sections 2 and 3 shall apply to any case pending in a district court of the United States in which an appearance has not been made prior to the effective date.

EXHIBIT 2

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., June 21, 1971.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal to amend the Narcotic Addict Rehabilitation Act of 1966.

That Act was a reflection of the congressional policy that narcotic addicts should be afforded the opportunity to be rehabilitated and restored to health for the benefit of both the individuals and society. To achieve that goal, the Narcotic Addict Rehabilitation Act provides for treatment of addicts who are charged with Federal crimes, and for those who are not so charged upon petition by the addict or a relative.

This legislative proposal would amend the definition of the word "treatment" where it is used in the Act to provide for a more comprehensive effort toward solving the problem of drug addiction. This would be achieved by providing for treatment which controls, as well as that which terminates, addiction. Essentially, the use of methadone would be authorized.

Complete recovery of an addict is not always achieved by complete withdrawal from addictive drugs. The underlying cause of such dependence must be eliminated if one who has ceased to rely on drugs is to be able to retain his independence. When a patient is on a methadone maintenance program, his activities no longer must be centered on the attainment of illicit drugs to support his habit, rather he can channel his energies in a more constructive manner and lead a more normal life while the basic reason for his drug needs are being explored.

We believe that this change in the Act will be of great assistance in our efforts in this important area of national concern.

The Office of Management and Budget has advised that enactment of this proposed legislation would be in accord with the Program of the President.

Sincerely,

———,
Attorney General.

EXHIBIT 3

SECTION-BY-SECTION ANALYSIS

SEC. 2. Amends Section 2901(d) of title 28, United States Code by revising the definition of the term "treatment" to provide the Surgeon General of the Public Health Service with the authority to control the dependence on addicting drugs of an addict who is an eligible individual under Title I of the Narcotic Addict Rehabilitation Act.

SEC. 3. Amends Section 4251(c) of title 18, United States Code by revising the definition of the term "treatment" to provide the Attorney General of the United States with authority to control the dependence on addicting drugs of an addict, who is an eligible offender under title II of the Narcotic Addict Rehabilitation Act.

SEC. 4. Amends Section 301(b) of the Narcotic Addict Rehabilitation Act by revising the definition of the term "treatment" to provide the Surgeon General of the Public Health Service with the authority to control the dependence on addicting drugs of an addict, who is eligible for Civil Commitment under title III of the Act.

SEC. 5. Provides that the Act shall take effect upon enactment and that Sections 2 and 3 of the Act shall apply to any case pending in a District Court of the United States in which an appearance has not been made prior to the effective date of the Act.

Mr. HRUSKA. Mr. President, on June 17, President Nixon sent to the Congress an historic message on drug abuse. This was a message of great significance in several respects. It was notable for the new Special Action Office for Drug Abuse Prevention which it proposed. At the same time, it was candid in its recognition of how far we still need to go in controlling a problem which, as the President put it, "has assumed the dimensions of a national emergency."

In this message President Nixon proposed a coordinated Federal response to the problem of drug abuse. He indicated that new legislation would be asked for in order to implement this plan. One of these has been introduced as S. 2097, which would establish the new Special Action Office for Drug Prevention. It is before the Committee on Government Operations.

Mr. President, I rise in support of the measure just introduced by the Senator from Indiana. It is one of the additional measures called for in President Nixon's message. This proposal was drafted in recognition of the role of methadone in the treatment of narcotic addiction. Although they must still be regarded as interim steps requiring close supervision, methadone maintenance programs have indicated that they have a definite place in controlling the narcotic addict's craving for heroin. Addicts involved in such programs have in many instances been able to lead productive lives in their communities, rather than making it their sole purpose in life to secure illegal drugs to support their habits.

When the Narcotic Addict Rehabilitation Act was enacted in 1966 the utility of programs which control, rather than terminate, addiction was not contemplated. As a consequence the word "treatment" as it is used in the act does not include maintenance programs like those relying on methadone.

This bill would amend the definition of the word "treatment" in the Narcotic Addict Rehabilitation Act to include services which control as well as eliminate addiction to narcotics. This means that Federal courts would be able to use the authority of the act to place addicts into methadone maintenance programs in appropriate cases, something which they now cannot do. In the words of President Nixon:

> The evidence indicates that methadone is a useful tool in the work of rehabilitating heroin addicts, and that tool ought to be available to those who must do this work.

Mr. President, I commend the chairman of the Judiciary Subcommittee on Juvenile Delinquency for introducing this bill on behalf of the administration. It is a reflection of his desire to approach the national problem of drug abuse in a spirit of bipartisan cooperation. This bill has merit. I am hopeful that we may have early consideration of and action on this proposal.

By Mr. CRANSTON (for himself, Mr. HARRIS, Mr. NELSON, and Mr. TUNNEY):

S. 2141. A bill to authorize the establishment of the Desert Pupfish National Monument in the States of California and Nevada, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

DESERT PUPFISH NATIONAL MONUMENT

Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to establish a Desert Pupfish National Monument in California and Nevada. I am joined in this effort by Senators HARRIS, NELSON, and my colleague from California, Senator TUNNEY.

In a desert region of Nevada and California called Ash Meadows, some 70 miles west of Las Vegas, there is a 40-acre parcel of hillside which is part of Death Valley National Monument, but separated by almost 20 miles of desert from the main body of the monument. The 40 acres was included in the national monument in 1952, because of a deep limestone chasm in the side of the hill at the bottom of which is a small warm-water spring.

It is called Devils Hole, and is surrounded by two chain link fences.

Outside of the fences the Park Service has erected a sign which reads as follows:

> DEVILS HOLE
>
> In the small pool at the bottom of this limestone cavern lives the entire population of *Cyprinodon diabolis,* one type of desert pupfish. These fish live in what is probably the most restricted environment of any animal in the world.

Down inside the hole, some 50 feet below the surface, the pool is about 10 feet wide and 40 feet long. As you reach the water level, you stand on a ledge less than

20 feet long, half of which is covered by what you learn is a slowly receding water line. Where the ledge abruptly ends, the water drops off into a dark cavern, over 250 feet deep.

It is on that small 10- by 10-foot ledge that the Devils Hole pupfish survive. They are a small dark fish, about an inch long with flashing blue highlights where the sun hits their sides. For reasons still unknown, they seem incapable of perpetuating the species outside of Devils Hole. While they have been spawned successfully elsewhere, the fry have never grown to maturity.

Devils Hole is aptly named—high mineral content, low oxygen, and 92-degree temperature. Just enough sunlight hits the water to encourage the algae growth which provides food for the pupfish.

That these fish have adapted to so inhospitable an environment is even more extraordinary, because they are the survivors of the cold water post glacial lakes which covered the Western United States following the last ice age.

Yet the pupfish have survived there for thousands of years.

As a resource for the geneticists developing new knowledge of survival capacities, the pupfish can be scientifically invaluable.

Yet the Devils Hole pupfish may fail to survive another year. A drop of less than 2 feet in the water level of Devils Hole will expose all of the ledge to the atmosphere, leaving no place for the pupfish food to grow and no place for the pupfish eggs to survive. Concerned Federal officials and university scientists have rigged up an emergency floating ledge with artificial lighting to encourage algae growth. But commendable as this effort is, it is a stopgap measure at best which can offer no permanent security to the pupfish.

If the pupfish becomes extinct, it will be because of man's activities. On the southern slope below Devils Hole a ranching operation has been pumping to irrigate about 3,000 acres of land to grow fodder for 2,500 head of cattle. The land is not very productive—the fields are pockmarked with alkaline sections where nothing grows—and the cattle must rely on imported feed to supplement the Ash Meadows crop. Yet it is to provide some feed for these few head of cattle that we are about to destroy the Devils Hole pupfish.

Recently, the Wall Street Journal carried an article regarding the plight of the pupfish. I ask unanimous consent that the June 8, 1917, article be printed at this point in the RECORD.

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

ADAPTABLE LITTLE FISH IN A DESERT WATERHOLE MAY DIE AT AGE 20,000; DEVIL'S HOLE PUPFISH IMPERILED BY LOWERING OF WATER LEVEL AFTER IT SURVIVES ALL ELSE

(By P. F. Kluge)

ASH MEADOWS, NEV.—Devil's Hole National Monument is a deep, narrow pool of water located in a cleft at the base of a mountain in the desert near here. As scenic wonders go, it isn't much.

To get here, you travel over miles of dusty roads, many of them unmarked. Once at the monument, you are greeted by a buckshot-riddled garbage can, a gravel parking lot and a sign. Around the spring is a chain link fence garlanded with barbed wire. Clearly, this is no Yosemite.

But Devil's Hole is at the center of an intense ecological battle that participants see as a test of the national will to save the growing number of animals on the Department of Interior's list of endangered species. "If we can't win this one," remarks a Devil's Hole campaigner, "we won't be able to save anything."

Devil's Hole is the only home—and by the end of this year, quite possibly the tomb—of Cyprinodon diabolis, the Devil's Hole pupfish. The inch-long creature has slight aesthetic appeal, and its commercial value is nil. One defender, U.C.L.A. zoology professor James Brown, readily concedes that "the pupfish isn't the California condor, the whooping crane or the tule elk."

But scientists agree that in some ways the pupfish is more remarkable than any of these, for it has been able to adapt and survive in one of the most widely fluctuating and hostile extremes of environment on earth. It's hoped that studies of this little fish may someday yield information that could help man survive the hostile environments he is creating.

IN AREA FOR 20,000 YEARS

Pupfish have been in the Ash Meadows-Death Valley area for 20,000 years. The area used to be one vast lake, and as it dried out and the desert emerged the pupfish were left behind, stranded in inches-deep streams, bathtub-sized pools and larger bodies of water scattered across the desert.

They adapted to a bewildering variety of environments. They could live in fresh water or in brakish pools six times as saline as the ocean. They survived in ice-covered ponds or in water of 104 degrees. And, with a speed and facility that astonish the scientists who have studied them, the pupfish mutated quickly. Species and subspecies proliferated, each evolving in response to its environment. So, for instance, the Devil's Hole pupfish differs in looks and character from the pupfish in School Springs, less than a mile away across the desert.

These colonies of pupfish, isolated in desert springs for millenia, offer a priceless opportunity to study the processes of evolution, scientists say. "I don't think they've attracted anywhere near as much attention as they deserve," says Mr. Brown of U.C.L.A. "These pupfish springs are like islands in a sea of desert. It's the same situation that Darwin found on land in the Galapagos Islands, only in reverse. And all of this is just six hours from Los Angeles, three hours from Las Vegas."

Whether scientists will have much more time to study the pupfish is doubtful, however. The desert fastness that stranded but also protected the pupfish is being penetrated. The prime threat is agriculture. Pumping and related activity has already destroyed several springs, and by gradually lowering the water table, threatens several others. The most threatened spring is Devil's Hole.

CANNOT LIVE OUT OF WATER

"The pupfish have been out in the desert for thousands of years, and they've evolved a lot," says Pete Sanchez, chief naturalist at Death Valley National Monument. "But they haven't evolved to the point where they can live out of water."

Mr. Sanchez says water levels in Devil's Hole have been dropping since 1968. That was when a large agricultural concern, Spring Meadows Inc., began raising cattle—and pumping irrigation water—in the Ash Meadows area.

Devil's Hole is deep—several hundred feet, at least—and ordinarily the drop of three feet in water level that has occurred might not mean much. But the diabolis spawns and feeds off a rock shelf just under the surface of the water. By late this year, Mr. Sanchez estimates, all of the shelf will be above the surface of the water—and out of reach of the Cyprinodon diabolis.

Since the diabolis declines to breed in captivity, concerned agencies have constructed an artificial shelf that floats in the lowered water. Officials concede that the device is at best an uncertain stopgap. A storm, an accident, a vandal, could destroy the shelf and exterminate the Cyprinodon diabolis.

"Once the natural shelf is dry," Mr. Sanchez says, "the fate of a whole species is hanging by a very thin thread."

Many agencies have joined in a Department of Interior Pupfish Task Force, which is coordinating rescue activities. Another group, the Desert Fishes Council, is campaigning for the pupfish. And Spring Meadows Inc., the agricultural firm whose pumping precipitated the current crisis, gets passing grades from conservationists for its cooperation. (The company has abandoned some wells, suspended drilling of others, and is participating in hydrological studies of the area.)

All of this doesn't save the pupfish, however. At least five pupfish populations have already been exterminated. Perhaps a dozen more pockets of pupfish remain in the Ash Meadows area, and frustration mounts as time shortens and water levels continue to drop.

"As cases of endangerment go, this is a relatively simple situation," says Mr. Sanchez. "It's one valley, one drainage system, one government, and one user of the water. It isn't like trying to save the polar bear. If we can't resolve this one, how can we hope to solve any of the bigger ones?"

Mr. CRANSTON. Mr. President, the bill I introduce today would authorize the Secretary of the Interior to establish a 35,000-acre area so as to preserve and protect the three distinct species or subspecies of pupfish now found in Ash Meadows: The Devils Hole pupfish—Cyprinodon diabolis—the Ash Meadows pupfish—Cyprinodon nevadensis mionectes—and the Schoolhouse pupfish—Cyprinodon nevadensis pectoralis. Those property owners who would use their land to lower the water level could be bought out and justly compensated. Others, like the old hermit who lives near Big Spring, can continue their desert ways.

The springs—there are at least a dozen—can be protected and the water level kept at its natural level.

As a national monument, Ash Meadows should never attract a large recreation-seeking crowd. These desert pools and marshes are fragile ecosystems where man is the greatest enemy. Instead, it is the purpose of this bill to prevent man's further uncontrolled intrusions into this strange and unique habitat.

Furthermore, until Congress has had an opportunity to act upon this legislation, I believe the Secretary of the Interior should protect Devils Hole National Monument by taking action to stop the pumping of irrigation water. I call on the Secretary to negotiate for a moratorium on pumping, and if that fails to take appropriate legal steps.

Except for their potential scientific

value, the desert pupfish are useless to man. They are too small to eat. They do not make good pets. They will not survive in home aquariums. They are almost impossible to sight in nature. They attract neither compassion nor admiration. Almost no one has ever seen a pupfish; few have heard of them.

Our saving the pupfish must be motivated by the knowledge that we do not understand the biosphere, the reasons for its diversity, the qualities which hold it together in the interaction of life forms. I think that saving the pupfish will be a most significant symbol that we are beginning to achieve some maturity in our understanding of ecology.

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

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

S. 2141

A bill to authorize the establishment of the Desert Pupfish National Monument in the States of California and Nevada, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to preserve and protect several species of desert pupfish, and to interpret their evolution in areas of their natural environment, for the benefit and education of the people of the United States, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish the Desert Pupfish National Monument (hereinafter referred to as the "national monument") in the States of California and Nevada. The boundary of the national monument shall be as generally depicted on the drawing entitled "Desert Pupfish National Monument," numbered NM-DP-91,000, and dated January 1971, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 2. Within the boundary of the national monument, the Secretary may acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange. Lands, waters, and interests therein owned by the States of California or Nevada, or any political subdivision thereof, may be acquired only with the consent of such owner. When the Secretary determines that lands, waters, and interests therein have been acquired sufficient to constitute an efficiently administrable unit for the purposes of this Act, he shall establish the national monument by publication of notice to that effect in the Federal Register. Pending such establishment and thereafter, the Secretary shall administer the lands waters, and interests therein within the boundary of the national monument in accordance with the provisions of this Act and the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.).

SEC. 3. Effective upon establishment of the national monument pursuant to section 2, the Devil's Hole portion of Death Valley National Monument, which was added to the Death Valley National Monument by Proclamation No. 2961 of January 17, 1952 (66 Stat. c 18), is abolished, as such, and the lands, waters, and interests therein are made a part of the national monument established pursuant to this Act. Any funds available for the Devil's Hole portion of Death Valley National Monument on the date of such establishment shall be available for the purposes of the national monument established pursuant to this Act.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. STEVENSON:

S. 2142. A bill to amend the Sugar Act of 1948 to prescribe minimum wages and conditions of employment for farm workers, and for other purposes. Referred to the Committee on Finance.

EQUITABLE BENEFITS AMENDMENTS TO THE SUGAR ACT OF 1948

Mr. STEVENSON. Mr. President, the Senate Finance Committee will soon begin marking up a bill to extend the Sugar Act for 3 years.

The Sugar Act has a unique aspect. To the best of my knowledge, it is the only Federal law that so completely controls, regulates, and subsidizes an industry while at the same time makes a condition of that assistance the fair and reasonable treatment of the employees of the industry.

The Migratory Labor Subcommittee of the Committee on Labor and Public Welfare, of which I am chairman, is vitally concerned about the living and working conditions of these employees. About 67,000 work in sugarcane—23,000 in Florida and Louisiana, 6,000 in Hawaii, and 38,000 in Puerto Rico—and 80,000 in sugar beets—primarily in the Midwest and West. I have learned something of the existing working and living conditions of farmworkers in sugar and the effects of the worker protection provisions of the Sugar Act.

I commend the Finance Committee for its concern for the industry's workers and for hearing testimony from farmworker organizations. These witnesses have emphasized that workers are not adequately covered by the protective benefit scheme established by Congress. Those who work the fields must not be exploited, and must not be left to work under substandard conditions for earnings that are less than a subsistence poverty income. Yet it appears that such might be the case, and that the law can be improved.

There are many examples of abuse, injustice, exploitation and neglect of farm labor that have been documented in our subcommittee's hearings. Some enlightened and well meaning sugar producers have taken great strides to assure decent treatment of their workers, and I believe that all producers could operate more effectively and efficiently with improved legislation.

I hope we can act now to improve the farmworker benefit provisions of the Sugar Act in the following ways:

Low wages and incomes below poverty levels can be raised. Sugarcane workers average $1.50 to $1.65 an hour in Louisiana and from $1.75 to $2 in Florida. The minimum wage in sugarbeets is $1.85. These low hourly rates do not reflect even lower earnings on an annual basis, a result of the part-time, seasonal nature of farmwork. Low wages earned by foreign workers in Florida are a result of an absence of competition from the domestic work force to the detriment of both foreign and domestic workers. In Hawaii, however, where labor and management collectively make decisions, wages are higher and fringe benefits are provided, all showing that a better situation can exist under the Sugar Act.

The piece rate system of pay and the "fake" bonus conceal low wages that in reality prevail and should be corrected by providing for the full and prompt payment of wages. Additionally, workers' incomes are frequently reduced by excessive charges for housing, food, purchases in the company store and other services or facilities, and this practice should be regulated.

Housing for workers is too often substandard, decrepit and dilapidated. Minimum housing standards are essential.

Domestic workers often have to compete for jobs and pay with aliens illegally working in this country, particularly in Midwest and Western sugar beet production States.

Workers who feel they have been shortchanged on wages have little recourse except appeal to the local ASCS committee which by law is composed only of farmers. Such unfair appeals procedures could be corrected by permitting farmworkers to also have a voice in the appeal process.

To correct these problems, I urge the Finance Committee to consider the equitable benefits amendments to the Sugar Act which I propose today. These amendments would, if enacted, bring about important reforms of existing farmworker protection provisions of the Sugar Act.

These amendments, by establishing criteria and guidelines to be used by the Secretary of Agriculture for setting wages, will permit sugar workers to better keep up with the cost of living and improve their real income as agricultural productivity rises.

They would require the same standards of housing from growers receiving payments as the Federal Government currently demands from farmers who seek the recruitment of workers through the U.S. Employment Service.

They would require that deductions taken from workers' wages for board, lodging, or other facilities or services be reasonable and be liable to adjudication if abuses are discovered.

They would require the grower to attempt to assure himself that he is not hiring illegal aliens to work in his fields.

They would prevent the firing or blacklisting of employees because they brought a wage or benefits dispute against a grower or participated in judging one.

And finally, they would establish a simple and fair system for adjudicating wage or benefit disputes in a local area.

The equitable benefits amendments which I propose today are not pie in the sky. They are not way out. They are reasonable. In fact, they are modest. I urge the Senate to give serious consideration to these amendments.

Mr. President, I ask unanimous consent that the text of these amendments, together with a section-by-section analysis, be printed at this point in the RECORD.

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

S. 2142

A bill to amend the Sugar Act of 1948 to prescribe minimum wages and conditions of employment for farm workers, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Equitable Benefits Amendments to the Sugar Act of 1948."

SEC. 2. Section 301(c) of the Sugar Act of 1948, as amended, is amended by renumbering paragraph (2) as paragraph (6), and by striking out paragraph (1) and inserting in lieu thereof the following:

"(c)(1) That all persons employed on the farm in the production, cultivation or harvesting of sugar beets or sugarcane with respect to which an application for payment is made shall have been paid wages therefor at not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice to growers and farm workers and their bona fide representatives and opportunity for public hearing to be held such places and at such times as to afford maximum participation by all interested persons. In making such determinations, the Secretary shall consider the sporadic and seasonal nature of the work; the extra expenses occasioned by travel and living away from home; wage rates in comparable manufacturing and agricultural production, provided that the per annum rates do not fall below the accepted definition of poverty; and a cost of living and productivity factor annually determined by: (1) calculating the sum of the percentage increase in the cost of living during the immediately preceding year and the percentage increase in the average annual output per manhour during the most recent five years, as reported in the Economic Report of the President, and (2) applying that total percentage increase to the minimum wage of the immediately preceding year. The Secretary shall also increase piece rate compensation for farm workers employed in sugar production accordingly and so that the hourly rate or the piecerate, whichever is higher, shall be paid. The Secretary may also take into consideration the standards therefore formerly established by him under the Agricultural Adjustment Act, as amended, and the differences in conditions among various producing areas. Provided, however, that any payment which would be payable except for the foregoing provisions of this subparagraph may be made, as the Secretary may determine, in such manner that the laborer will receive an amount, insofar as such payment will suffice, equal to triple the amount of the accrued unpaid wages for such work, and that the producer will receive the remainder, if any, of such payment.

"(2) That the producer shall have complied with the regulations in effect under the Act of June 6, 1933, as amended (commonly known as the Wagner-Peyser Act, 29 U.S.C. 49 et seq.), pertaining to adequate housing facilities and to adequate water and sanitary facilities in the fields which he provides or causes to be provided.

"(3) That the producer shall have determined to his knowledge that his employees engaged as sugarworkers are citizens of the United States or are aliens lawfully admitted to the United States whose employment does not violate the terms or conditions of their admission.

"(4) That the producer shall not have charged, or permitted to be charged, directly or indirectly, any amount in excess of the reasonable cost for the furnishing to any employee board, lodging, or other facilities or services customarily furnished by such producer or producers in the area or by a crew leader or labor contractor under the producer's control.

"(5) That the producer shall not have discharged or in any other manner discriminated against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding, or has served or is about to serve on a committee or panel under section 305 of this Act."

SEC. 3. Section 305 of the Sugar Act of 1948, as amended, is amended to read as follows:

"Use of Local Committees and Other Agencies

"(a) In carrying out the provisions of titles II and III of this Act, the Secretary is authorized to utilize local committees of sugar beet or sugarcane producers, farm worker organizations and representative groups, State and county agricultural conservation committees, the Agricultural Extension Service, and other agencies, and the Secretary may prescribe that all or a part of the expenses of such committees, agencies, associations or other groups may be deducted from the payments herein authorized.

"(b) The Secretary shall establish for each locality a panel consisting of equal representatives of (1) producers of sugar beets or sugarcane; (2) persons employed on the farm as sugar workers, and (3) the general public. Any dispute between a producer and persons so employed on the farm concerning wages or conditions of work (including the reasonable cost of board, lodging, or other facilities or services which the producer provides or causes to be provided) shall be referred to the appropriate panel for resolution in an impartial manner. The decision of any panel shall be subject to review by the Secretary for a period of twenty days after such decision is made.

SECTION-BY-SECTION ANALYSIS OF THE EQUITABLE BENEFITS AMENDMENTS TO THE SUGAR ACT OF 1948

In summary, *Section 1* provides that the Bill may be cited as the "Equitable Benefits Amendments to the Sugar Act of 1948." *Section 2* would amend Section 301(c) of the present Sugar Act by providing additional equitable benefits and protections for sugar workers in the area of wages, housing, illegal aliens, deductions, and retaliation. Certain worker protection provisions which were initially in the Act of 1948 are retained. *Section 3* authorizes a more effective mechanism for settling disputes under the Act.

The following is an analysis of the new benefits and protections proposed in the Amendments.

WAGES

Section 301(c)(1) would establish specific guidelines to be used by the Secretary of Agriculture to determine the minimum wages for workers employed on the farm in the production, cultivation or harvesting of sugar cane or sugar beets. It would supplement the current procedures of hearings and criteria used by the Secretary of Agriculture.

Criteria for use by the Secretary in determining wages would include a cost of living and agricultural productivity factor; adjustments for the sporadic and seasonal nature of the work; the extra expenses occasioned by the travel and living away from home; wage rates comparable to agricultural and manufacturing operations.

The amendment would permit sugar workers to keep up with the cost of living. But if it provided no other increase, then these workers would never be able to improve their real income. The amendment therefore also gives them a share in the benefits of productivity increases in agriculture. This is only fair and just since the workers share in the responsibility and effort to create our ever-increasing agricultural efficiency. Piece rates would increase accordingly.

The amendment requires growers to pay the applicable minimum wage "in full as earned." This provision would end the current practice whereby some sugar beet growers withhold earned wages from workers until the end of the season to be paid then if they remain when the harvest is lean and when they could earn more in work on other commodities.

HOUSING

Section 301(c)(2) would require that producers furnishing housing or causing housing to be furnished must provide or cause to be provided facilities which meet the existing Wagner-Peyser Act regulations of the U.S. Labor Department. The same requirements would be established for water and sanitary facilities in the fields.

Currently, the Wagner-Peyser Act regulations apply to those producers who recruit workers through the U.S. Employment Service. But if a producer recruits workers without USES aid or if his State or locality enforces no farm labor housing codes, then the producer's housing for workers can be as decrepit as he likes.

The Wagner-Peyser Act regulations provide that where local or State housing standards are more stringent than the minimum standards specified in the regulations, the local or State requirements must be complied with. Section 301(c)(2) would continue this provision for sugar production, cultivation or harvesting.

ILLEGAL ALIENS

Section 301(c)(3) requires that the producer determine to his knowledge that his employees engaged in sugar production, cultivation or harvesting are either U.S. citizens or aliens legally employed in the U.S.

Currently, some 1,000,000 aliens who entered the U.S. illegally and/or are working illegally are estimated to be employed in the country. Employers face no penalties now for hiring them. These workers are easily exploited since one call to the U.S. Immigration and Naturalization Service results in their jailing and expulsion from the U.S. They are often paid less than the minimum wage and have a harmful effect on the labor conditions of U.S. citizens and legally-working aliens. The employment of illegals in sugar production hurts not only other workers but also conscientious employers who hire only U.S. citizens and legal aliens.

DEDUCTIONS

Section 301(c)(4) would permit only reasonable charges to be made for furnishing workers' board, lodging or other facilities or services. A dispute over whether the charges are reasonable would be considered a wage dispute and be resolved by the procedure outlined under the heading "Disputes Settlement" below.

Numerous complaints exist that sugar workers are cheated in the deductions taken from their pay for the cost of facilities or services provided by producers or crew leaders and labor contractors. In fact, some workers argue that requiring deductions to reflect reasonable costs is more important than increasing wages because they often do not get the benefit of wage increases.

RETALIATION

Section 301(c)(5)) forbids the discharge or any other discrimination against an employee because he was involved in the filing of a complaint under these Amendments, testified in a dispute or served on a committee to adjudicate disputes under these Amendments.

Sugar workers are so poverty-stricken that fear of losing work is a powerful deterrent to their seeking their rights. They have been

easily intimidated in the past against asserting the few rights they do possess.

PENALTIES

Certain language in the currently existing Section 301(c)(1) of the Sugar Act is dropped. As a result, the penalty for violating the requirements of Section 301(c), as prescribed by the Amendments, would be the forfeiture of sugar payments.

DISPUTES SETTLEMENT

Section 3 of the Amendments would amend Section 305(a) of the Sugar Act of 1948 to authorize the Secretary of Agriculture to utilize farmworkers organizations and representative groups in carrying out the applicable provisions of the Act.

Section 3 would also add a Subsection (b) to Section 305 of the Sugar Act. It would require the Secretary to establish in each locality a panel composed of equal representatives of sugar producers, fieldworkers and the general public to consider any dispute between a producer and a worker concerning wages or conditions of work. The conditions include the reasonable cost of board, lodging or other facilities or services which the producer provides or causes to be provided. The panel shall resolve these disputes in an impartial manner. The decisions are subject to the Secretary of Agriculture's review within 20 days after they have been made.

Currently, there is no fair and unprejudiced way for fieldworkers to have their disputes with a grower over wages or deductions resolved. Their complaints are considered by the local Agricultural Stabilization and Conservation Service Committee, which according to Department regulations, is composed solely of growers.

By Mr. INOUYE:

S. 2143. A bill to amend the District of Columbia Traffic Act, 1925, to provide for the removal, impoundment, or immobilization of motor vehicles. Referred to the Committee on the District of Columbia.

Mr. INOUYE. Mr. President, today I am introducing a bill which had its genesis in an archtype legislative situation. Inadequacies in the enforcement of the law and the prosecution of scofflaws was a matter in issue during the recently completed appropriations hearings on the fiscal year 1972 District of Columbia budget. The matter was meaningfully brought to the attention of the committee and the issue resolved, to the extent possible, under present law by citizens of the community.

In a city of citizens without the right to vote, there are, of necessity, many concerned neighborhood groups performing the functions of the electors and the elected. One of the most stalwart groups is the Citizens Association of Georgetown. In this instance, as a result of their concern over illegally parked vehicles, they conducted a study analyzing the one-half million unpaid parking tickets issued within the District of Columbia during 1970. This was almost half of the total tickets issued. Their findings showed some $2.5 to $4.0 million less in the city coffers as a result of unpaid parking tickets. This startling fact, in a city which annually must seek fiscal support from the Congress, was brought to the city's attention by Martha Angle, a reporter for the Washington Evening Star. This reporter investigated the findings, authenticated the facts, and did a further analysis of the causes of this shocking situation. An informed public demonstrated its disapproval. My concern over revenues lost, and the disregard for the law demonstrated, resulted in the legislation I am introducing today. I am pleased to have had the cooperation and assistance of the District of Columbia's Corporation Counsel, C. Francis Murphy, newly appointed to one of the most important city offices during one of the city's most trying times.

Mr. President, I cite the above instances to show not only that the District has a concerned citizenry, a community service-oriented press, and competent civil servants, but also to reemphasize that the citizens of this city can tend to their municipal matters much more promptly, aptly, and appropriately than any U.S. Senator. It is my sincere hope that this is the last piece of legislation that this Senator, or any of my colleagues is called upon to introduce to this Chamber on District of Columbia parking violations.

Mr. President, this legislation is not the only possible approach to dealing with the scofflaw problem in the District of Columbia. A reciprocal agreement with the governments of Virginia and Maryland, providing an opportunity for those States to deny licensing to scofflaws as the District is presently able to do for its own scofflaw drivers would also be most helpful and save much police time as well. I understand the District government already has such authority as is necessary for the Mayor to enter into such agreement. The Council of Governments is actively pursuing and promoting an early agreement. I hope it may soon be achieved. However, such an agreement will not deal effectively with the substantial number of automobiles registered outside these three jurisdictions which operate on the streets of our city and which today are beyond the authority of the city to deal with in an effective manner. The proposed legislation hereby introduced will close that loophole as well.

Mr. President, I ask unanimous consent that the two newspaper articles by Martha Angle, and the attached bill be printed in the RECORD at this point. I further request that this measure be assigned to the appropriate committee for early consideration and favorable action.

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

S. 2143

A bill to amend the District of Columbia Traffic Act, 1925, to provide for the removal, impoundment, or immobilization of motor vehicles

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the District of Columbia Traffic Act, 1925 (43 Stat. 1119; D. C. Code, sec. 40–603 (is amended by adding at the end thereof the following new subsection:

"(k)(1) Any unattended motor vehicle found parked at any time upon any public highway of the District of Columbia against which there are two or more outstanding or otherwise unsettled traffic violation notices or against which there have been issued two or more warrants, may, by or under the direction of an officer or member of the Metropolitan Police force or the United States Park Police force, either by towing or otherwise, be removed or conveyed to and impounded in any place designated by the Commissioner, or immobilized in such a manner as to prevent its operation, except that no such vehicle shall be immobilized by any means other than by the use of a device or other mechanism which will cause no damage to such vehicle unless it is moved while such device or mechanism is in place.

"(2) It shall be the duty of the officer or member of the police force removing or immobilizing such motor vehicle, or under whose directions such vehicle is removed or immobilized, to inform as soon as practicable the owner of an impounded or immobilized vehicle of the nature and circumstances of the prior unsettled traffic violation notices or warrants, for which or on account of which, such vehicle was impounded or immobilized. In any case involving the immobilization of a vehicle pursuant to this subsection, such member or officer shall cause to be placed on such vehicle, in a conspicious manner, notice sufficient to warn any individual to the effect that such vehicle has been immobilized and that any attempt to move such vehicle might result in damage to such vehicle.

"(3) The owner of such impounded or immobilized motor vehicle, or other duly authorized person, shall be permitted to repossess or to secure the release of the vehicle upon the depositing of the collateral required for his appearance in the Superior Court of the District of Columbia to answer for each violation for which there is an outstanding or otherwise unsettled traffic violation notice or warrant."

[From the Washington Evening Star, April 22, 1971]

INOUYE HITS MAYOR ON SCOFFLAW DELAY

(By Martha Angle)

Sen. Daniel K. Inouye, D-Hawaii, has chided Mayor Walter E. Washington for failing to move against parking scofflaws or provide other "leadership in austerity" at a time when the District faces a massive revenue crisis . . .

* * * * *

On the parking subject, Inouye referred to Star articles pointing out that half of the 1,005,100 parking tickets issued last year were unpaid at the end of the year and that city police have been seeking authority for more than a year to impound cars with outstanding parking violations.

"If you're not going to follow up, you've wasted the valuable time of policemen who issued those half-million tickets," Inouye told Mayor Washington.

AUTHORIZATION NEEDED

C. Francis Murphy, the city's newly named Corporation Counsel, said the District would need congressional authorization to impound legally parked cars that have outstanding parking tickets, although it could move against illegally parked vehicles with unpaid tickets.

Inouye promptly responded that "I will introduce such legislation forthwith and see to it that it at least passes the Senate."

The Citizens Association of Georgetown recently did a study indicating the District is losing $2.5 million to $4 million per year from unpaid parking tickets, many of which were issued to Maryland and Virginia cars.

The mayor said yesterday the most effective way to recoup parking fines from cars belonging to suburbanites would be a reciprocal agreement with Maryland and Virginia for withholding of license tags until all outstanding parking tickets are paid.

City officials have made no attempt to date to negotiate such an agreement, however,

Francis B. Francois, president of the Metropolitan Washington Council of Governments, said last weekend the idea is "very interesting" and "well worth pursuing."

And State Sen. Meyer M. Emanuel, D-Prince Georges County, has written to Francois offering to sponsor such legislation in the Maryland General Assembly if COG wishes to pursue the matter.

[From the Washington Evening Star, Apr. 21, 1971]

DISTRICT LAGGING ON ACTION AGAINST SCOFFLAWS

(By Martha Angle)

Although the District loses millions of dollars annually from unpaid parking tickets, the city has taken no action for more than a year on proposals to authorize police to impound cars of scofflaws until tickets are paid.

The Metropolitan Police Department has been seeking such authority, which would require City Council action, for well over a year, but its proposal repeatedly has been caught in the bureaucratic switches.

Sen. Daniel K. Inouye, D-Hawaii, chairman of the Senate District appropriations subcommittee, planned to question Mayor Walter E. Washington today about the city's failure to move against parking violators.

City Council Chairman Gilbert Hahn Jr. admitted yesterday that "we're not right on top of" the parking scofflaw problem.

"There's no doubt it's one of those things we ought to have gotten to sooner," Hahn said. The council will consider the situation next month when it takes up a whole series of parking problems, he said.

A recent study by the Citizens Association of Georgetown showed that half the 1,005,100 parking tickets issued by the District last year were unpaid at the end of the year.

The association estimated the unpaid tickets cost the city from $2.5 million to $4 million in revenue. It blamed a large part of the loss on the absence of any reciprocal agreement between Maryland, Virginia and the District to force payment of parking tickets by withholding license tags from scofflaws.

The study by the Georgetown association showed about one-third of the unpaid tickets were issued to Maryland and Virginia cars, 40 percent to cars from other states and the rest in District residents.

The District can withhold license tags from its own residents who fail to pay their parking tickets, but has no power to collect from suburbanites unless police catch them in the act.

Through use of a computer shared with the Central Violations Bureau, the police can identify the license tag numbers of all cars with outstanding parking violations.

They also can identify the names of District offenders, their addresses, the type of parking violation and the time and place of all parking violations incurred by each individual.

NO LEGAL BARRIER SEEN

At least two of the last three corporation counsels for the District have said there is no legal barrier to authorizing police to impound any car illegally parked in the city which has outstanding parking violations.

The situation is somewhat murkier, legally speaking, for authorizing impoundment of legally parked vehicles whose owners have failed to pay past parking tickets, the lawyers have said.

"Quite frankly, we just haven't been able to resolve that issue. It's hard to come to a consensus," one District official said yesterday.

District officials admit no effort has been made to reach a reciprocal agreement with Maryland and Virginia to withhold license tags of parking scofflaws until all tickets are paid up.

By Mr. INOUYE:

S. 2145. A bill to amend chapter 19 of title 38, United States Code, to require that members of the uniformed services be covered by Servicemen's Group Life Insurance during any period they are assigned to duty in a combat zone. Referred to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, I am introducing today for appropriate reference a bill to make mandatory life insurance coverage of military personnel assigned to a combat zone.

Under present rules and regulations, Servicemen's Group Life Insurance is made available to members of the uniformed services at the rate of $3 per $15,000 coverage, $2 per $10,000 and $1 per $5,000. Unless otherwise informed by the serviceman insured, the policy automatically remains in effect throughout his service obligation.

The current act, however, allows the insured to cancel or reduce his coverage. In some cases, this option can have adverse consequences for his beneficiaries. A serviceman assigned to a combat zone faces a high risk of injury or death, and to authorize him to cancel his coverage or go on duty without coverage during his tour might very easly deprive his family or relatives of any monetary assistance resulting from his death. There has been a case in my home State of Hawaii in which a serviceman cancelled his insurance only to die shortly thereafter from hostile fire. Mandatory insurance for this limited class of servicemen and servicewomen could alleviate some of the financial problems caused by their deaths. My bill would authorize reduced coverage if the soldier so wishes it but establishes a mandatory floor of $10,000.

The sum of money involved is small and will impose no financial constraints on the Department of Defense. As our involvement in Indochina declines, the requirement for such legislation will ease. However, as long as we have forces in Indochina, the need for remedial legislation will exist.

Therefore, I hope that the Congress will give the bill its expeditious and favorable consideration.

By Mr. HUMPHREY:

S. 2146. A bill to require community mental health centers and hospitals and other medical facilities of the Public Health Service to provide needed treatment and rehabilitation programs for drug addicts and other persons with drug abuse and other drug dependence problems, and for other purposes. Referred to the Committee on Labor and Public Welfare.

EXPANSION OF COMMUNITY MENTAL HEALTH CENTERS FOR TREATMENT OF DRUG ADDICTS

Mr. HUMPHREY. Mr. President, at last we seem to be mobilizing a vigorous effort for the rehabilitation and treatment of drug addicts.

The administration announced last week a catchup effort, directing much of its fire at improving drug treatment for Vietnam veterans and the creation of an emergency drug program office in the White House. I am pleased to see this action.

I regret, however, that the President apparently has overlooked the use of a very effective tool in his new crash program against drugs, the use of community mental health centers to treat drug addicts.

While community mental health centers have offered some drug rehabilitation treatment in the past, we need to give much greater attention to expanding this resource.

I, therefore, am introducing legislation today which will authorize $160 million for staffing grants at community mental health centers.

The purpose of the staffing grants is to guarantee treatment and rehabilitation programs for addicts at neighborhood community mental health centers.

No grant would be made available unless the centers provide treatment and rehabilitation programs for drug addicts.

Under the proposal the centers could also enter into agreements with the Veterans' Administration and the Armed Forces to treat ex-servicemen or servicemen suffering from drug addiction.

This proposal is a companion measure to the bill introduced by Representative PAUL ROGERS of Florida, whose Subcommittee on Public Health and Environment will begin hearings next week on the treatment of drug addicts at community mental health centers.

The campaign against drug abuse and to help drug victims is one for all levels of government. Surely one area where the Federal Government can help is at the neighborhood level through federally funded community mental health centers.

Reportedly one of the greatest obstacles to a permanent cure for the drug addict is his inability to achieve psychological divorce from a drug once withdrawal procedures have run their course. A recent report on drugs said that "there are countless thousands of cases where the physical addiction has been broken by withdrawal only to find the addict returning to drugs once he is back in an old and familiar environment."

Community mental health centers may be one of our best hopes for quickly establishing effective drug rehabilitation programs. But they need much greater support.

In fiscal year 1971 the community mental health centers had a staffing and operational budget of $90.1 million. The administration's budget request for the next fiscal year asks for only $15 million more. The increase will go toward supporting an estimated 42 new centers. None of this money is for expansion of any drug treatment operations at the centers.

The budget allocates to special staffing under the narcotics addicts treatment program of the community mental health centers only $14.6 million. All of this money will be required for continuation of current projects relating to drug treatment.

As of April 30, 1971, the 23 drug treatment centers at community mental health centers had treated more than 8,000 patients. Because of the widespread use of drugs, such treatment hardly

makes a dent in assisting the tens of thousands more persons now afflicted.

I believe the budget request is also too low for special projects under Public Law 91–513 which would treat drug addicts at community mental health centers in areas where there is a high rate of drug use.

The current budget of the Nixon administration asks $9 million for detoxification, institutional services and after care services. However, this amount will only maintain the treatment at 1971 levels.

Of the $9 million in special project moneys, $4 million worth of projects are being transferred from the Office of Equal Opportunity to the community mental health centers. Therefore, there is no real gain in funds.

If suitably strengthened, the community mental health program could prove a most effective instrument in helping combat the drug problem.

At this point, it goes without saying that the community mental health centers represent a unique model in the delivery of mental health services. They can reach those in need of treatment much more quickly than the traditional mental health institutions.

The centers already have established working rapport with the leading segments of the community—educators, clergy, physicians, psychiatrists, and other community leaders.

These are all elements which must be brought together and work together to fight drug abuse.

Drug abuse is a community health problem.

We should attack it at the local level where the facilities are available.

By Mr. MATHIAS (for himself, Mr. BAYH, Mr. COOK, Mr. BEALL, Mr. BROOKE, Mr. CANNON, Mr. CASE, Mr. COOPER, Mr. CRANSTON, Mr. EAGLETON, Mr. ERVIN, Mr. FONG, Mr. GAMBRELL, Mr. HOLLINGS, Mr. HUMPHREY, Mr. INOUYE, Mr. JAVITS, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MOSS, Mr. MUSKIE, Mr. PERCY, Mr. STEVENS, Mr. TAFT, Mr. TOWER, Mr. TUNNEY, and Mr. WILLIAMS):

S. 2148. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide for a comprehensive grant program for the prevention of juvenile delinquency and for the rehabilitation of juvenile delinquents. Referred to the Committee on the Judiciary.

Mr. MATHIAS. Mr. President, the solution to our growing crime problem is the greatest challenge to this country. It is the ultimate challenge for if it is not overcome, it will surely destroy the Nation. And it is for this reason all of America must partake in its solution. Crime is literally draining our Nation of billions of dollars, causing anxiety and uncertainty for millions of Americans and suffering for its untold victims.

It is all-pervasive. There are few people in the United States who either personally or through ties of family or friends have not been affected by crime. There is not a day gone by that we fail to read or hear about some terrible tale of criminal conduct.

We are beginning to know more and more about crime. We know that crime is a reflection of the anger and frustration of the inner city. We know the congestion of the ghetto, poor housing, and poor education do much to aggravate the problem. We know that the ineffectiveness of prosecutorial efforts create a lack of needed predictability in the enforcement of our laws.

We know that many of our established institutions are aiding and abetting the problem, rather than contributing to its solution. Our prisons, for instance, are creating an environment for reenforcing criminal conduct, rather than changing the attitudes of the criminals. Our entire judicial and law enforcement system has become a system of revolving doors. Our courts and prisons have been putting rapists and murderers in the same cell with the college pot smoker and the juvenile runaways. These institutions are grouping for renewal.

We are now starting to learn about the important who's, how's, and why's of crime. We know at least that these problems are institutional as well as human. We have a great deal more to learn. But I must compliment our governments in responding to this once great and immeasurable void. We have begun to fill in the empty spaces with the needed facts and figures.

We must approach our crime problem as we approach a business venture. If we are to put billions and billions each year into courts, police, corrections and so on, and expect productive and responsive results, we must know about the successes and failures of our previous efforts. We must know the causes of crime as well as the likely remedies.

The economics of crime, if operated effectively, will dictate a proper balance between demand for action and supply of resources. We simply cannot afford to waste money and time in this ever-increasing social menace.

However, at the present time, the economics of crime are not working. If a certain segment of our population is causing a declared percentage of the overall crime, our resources should be flexible enough to respond in a like proportion.

The case in point is juvenile delinquency.

Although juveniles make up around 17 percent of our population, juvenile delinquency is responsible for close to half our arrests and more than one-third of the Nation's crime. The disproportionate share of crime committed by juveniles is abundantly documented by the President's Commission on Law Enforcement and the Administration of Justice, the Annual Report of the Youth Development and Delinquency Prevention Administration and numerous other studies and reports.

For further proof of the juvenile's involvement in the law enforcement, judicial and correctional processes, all one has to do is visit our jails and prisons, the courts and lock-ups. Look inside the flashing police car as it speeds its way to the police station. Look and you will see mostly juveniles; you will see young, angry—and scared faces.

The President's Commission unequivocally pronounced that "America's best hope for reducing crime is to reduce juvenile delinquency and youth crime." Reducing juvenile delinquency will also save time and money. Last year there were close to a million court cases involving juvenile delinquents. In Baltimore City, which has a juvenile population of one-third the total population, there were almost 9,000 juvenile delinquency cases processed through its courts.

When we look to the future, the juvenile's involvement in the criminal process becomes even more pronounced. During the last decade, juvenile arrests for violent crimes increased 148 percent, while arrests for property offenses increased 85 percent. Again in Baltimore City, 50 percent of the breaking and entering and auto thefts were committed by the city's juveniles.

With our juvenile population now growing and making up a greater proportion of the total population, we can expect in the years ahead an even greater increase in youth crime.

How has the Federal Government responded, knowing these facts—realizing the impact of juvenile delinquency upon our Nation's stability. Quite frankly, I must say not very well.

In recent testimony before the Subcommittee on Juvenile Delinquency, Mr. Jerris Leonard, Administrator of the Law Enforcement Assistance Administration—LEAA—stated that only 19 percent of LEAA funds are now going toward the prevention of juvenile delinquency and the rehabilitation of juvenile delinquents.

LEAA, as you all know, is the major crime fighting vehicle of the Federal Government—created in title I of the Safe Streets Act of 1968. I am proud of its accomplishments—and have become one of the agency's most aggressive supporters. And it is for this reason I believe that the agency should get more involved in juvenile delinquency; it has given too little direction to this vital area.

It is with these objectives that today I introduce the Juvenile Delinquency Prevention and Rehabilitation Act of 1971. Senators COOK and BAYH are the principal cosponsors and are joined by Senators ERVIN, BEALL, TUNNEY, MCGOVERN, STEVENS, EAGLETON, CASE, TOWER, GAMBRELL, CANNON, HUMPHREY, BROOKE, PERCY, CRANSTON, MUSKIE, COOPER, INOUYE, MOSS, JAVITS, FONG, TAFT, MCINTYRE, HOLLINGS, and WILLIAMS. I am pleased to have as many as 26 cosponsors. I think this reflects a recognized sense of urgency in the Senate.

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

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

S. 2148

A bill to amend Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide for a comprehensive grant program for the prevention of juvenile delinquency and for the rehabilitation of juvenile delinquents

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 "Juvenile Delinquency Prevention and Rehabilitation Act of 1971."

SEC. 2. Section 303 of Part C of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by inserting immediately after the second sentence the following new sentence: "Within two years after the date of enactment of part F of this Act, no State plan shall be approved as comprehensive, unless it includes a juvenile justice component, as provided for in part F, and providing that at least 40 per centum of Federal assistance granted to the respective State planning agency for any fiscal year be allocated to the juvenile justice component of the State plan as provided for in part F."

SEC. 3. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by inserting immediately after Part E the following new part:

"PART F—GRANTS FOR JUVENILE DELINQUENCY PREVENTION AND REHABILITATION

"SEC. 471. It is the purpose of this part to assist States and units of general local government to develop and implement programs and projects for the prevention of juvenile delinquency and for the rehabilitation of juvenile delinquents.

"SEC. 472. The Administration is authorized to make grants under this part to a State planning agency; provided the application sets forth a comprehensive statewide program for the prevention of juvenile delinquency and for the rehabilitation of juvenile delinquents which contains and meets the following requirements:

"(a) provides that no less than 50 per centum of the funds available to such State pursuant to section 474(a)(1) will be expended only on the development and use of facilities and services designed to provide an alternative method of rehabilitating or detaining juveniles other than confinement in training schools, reform schools, correctional institutions, detention centers, and other similar facilities as the Administration shall designate as prohibited pursuant to its authority contained in section 473 of this Act.

"(b) provides that the applicant State will treat juveniles who have committed offenses that would be criminal offenses if committed by an adult in separate facilities with separate and distinct programs;

"(c) provides for advanced techniques in the design of services and facilities, such as, but not limited to the following:

"(1) community-based services and facilities for the prevention of juvenile delinquency and for the rehabilitation of juvenile delinquents through the development of foster-care and shelter care homes, group homes, halfway houses, and any other designated residential, community-based treatment or rehabilitative facility or service;

"(2) diagnostic facilities and services on a statewide, regional, or local basis;

"(3) expanded use of probation as an alternative to incarceration, including programs of probation subsidies, probation caseloads commensurate with recognized optimum standards, the recruitment and training of probation officers and other personnel according to standards promulgated by the Administration pursuant to section 474 of this Act, and community-oriented programs for the supervision of juvenile probationers and parolees;

"(4) comprehensive programs of drug abuse education and prevention, and programs for the treatment and rehabilitation of drug dependent youth (as defined in section 2 of the Public Health Services Act, 42 USC 201, as amended);

"(5) delinquency prevention programs, including individual and family counseling, use and training of professionals and paraprofessionals and other supportive services within the elementary and secondary education systems to detect, work with, and divert from the juvenile justice system delinquent and potentially delinquent youth;

"(d) provides for special training and other qualifications in order to meet personnel standards required in dealing effectively with juvenile delinquents and pre-delinquents;

"(e) complies with the same requirements established for comprehensive State plans under paragraphs (1), (3), (4), (5), (7), (8), (9), (10), (11), and (12) of section 303 of this title.

"SEC. 473. The Administration shall by regulation prescribe basic criteria for applicants, grantees, facilities and services; and shall promulgate such rules and regulations as are necessary to effectuate the provisions of this part.

"SEC. 474. (a) The funds appropriated for each fiscal year for grants under this part shall be allocated by the Administration as follows—

"(1) 85 per centum of the funds shall be available for grants to State planning agencies on the basis of the respective populations of juveniles aged 11 through 17, inclusive, of eligible States.

"(2) The remaining 15 per centum of the funds may be made available, as the Administration may determine, to State planning agencies, units of general local government, or combinations of such units, according to the criteria and on the terms and conditions the Administration determines consistent with this part.

Any grant made from funds available under this part may be up to 75 per centum of the cost of the program or project for which such grant is made. Funds awarded under this part may be used for real estate acquisition, provided that a specific comprehensive audit by the Administration is made at the time of purchase and at the time of selling of said property.

"(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds granted to an applicant for the fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 509 of this title, that portion shall be available for reallocation under paragraph (2) of subsection (a) of this section.

"SEC. 475. There are authorized to be appropriated 500 million dollars for the fiscal year ending June 30, 1972, and 500 million dollars for the succeeding fiscal year."

SEC. 4. Paragraph 4 of section 453 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by striking the word "delinquents,".

SEC. 5. (a) Subsection 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by striking out the word "There" and inserting in lieu thereof "Except as provided in part F, there".

(b) Parts F, G, H, and I of title I of such Act are redesignated as part G, H, I, and J.

Mr. MATHIAS. Mr. President, in the time remaining, I will chronologically go through the bill and explain its major provisions.

The legislation creates a new title to the Law Enforcement Assistance Administration—title F—similar to the recently established part E on corrections. Besides those moneys going through part C—the block grants to the States—part F will contain all the enabling legislation and funds for the prevention of juvenile delinquency and the rehabilitation of juvenile delinquents. In other words, this bill takes out of part E all reference to juveniles, leaving it an adult oriented title.

Like part E, part F will not deprive any State of its part C funds. Funds will be authorized as a line item—independent of the block grant money.

Within 2 years after the enactment of this new part F, in order to have a State plan approved as "comprehensive" within the meaning of existing guidelines, two prerequisites must be fulfilled: First, the comprehensive plan must include a juvenile justice component, and second at least 40 percent of the entire LEAA money must be devoted to the area of juvenile delinquency.

At present, the statewide comprehensive law enforcement plan submitted to LEAA does not have to contain a juvenile justice component. A good number of States—including the State of Maryland—have such a component; however, too many do not. And those which do not endanger the law enforcement efforts of the entire Nation. It just makes no sense for most States to fail to program and plan their fight against juvenile delinquency, realizing the great proportion of crime committed by this group. You cannot expect to alleviate the problem when you make no provision to recognize it, nor plan for its ultimate solution. Some States can spend pennies on juvenile delinquency with legislative impunity and Federal acquiescence. This provision would assure that each State will be responsive to the need.

The 40 percent allocation for juvenile delinquency I imagine will be somewhat controversial. Let me say quite frankly that the figure might be too high—perhaps a slightly lower figure would be more equitable and timely. But the point has to be made that the States must devote more money and resources to combat juvenile delinquency.

In setting forth a percentage requirement, you do not take money away from the rest of the LEAA program. This is so because the $500 million authorized in the bill for this new part F is an amount which slightly exceeds the present total appropriation for the administration. Thus the percentage figure merely assures that the State will use this new money—and not allow it to go unspent. We simply have got to make sure that the States will respond to the problem of juvenile delinquency—it is the concern of not just one State—but the concern of all our States—the concern of the Federal Government.

To further assure that the States are responding in a sophisticated and appropriate manner, the legislation contains what I believe to be the most progressive guidelines for any law enforcement bill ever introduced in the Senate.

It is well recognized and documented that prisons have become a negative experience; an experience which should be avoided. In the interests of society and

for the betterment of the individual, most agree that we must find alternative methods of incarceration. To accomplish this objective, most have suggested massive efforts to establish halfway houses, community centers, and other diversion-type programs.

Section 472(a) contains the novel requirement that at least 50 percent of the funds devoted to part F must be allocated to alternative methods of incarceration. Money must be spent on institutions of confinement and rehabilitation other than traditional jails, reform schools, and other cold and innuman correctional institutions. LEAA is given the authority to promulgate rules and regulations as to what qualifies as an approved alternative.

It is absolutely essential that we take young kids away from institutions which only hardens their anger and increase their criminal propensities. When one travels about our Nation and looks at the juvenile institutions—often called detention centers—one can clearly understand why most of the kids graduate into an adult prison. If we are to ever stop the costly process of recidivism, we must make the first step with the juveniles—the group which, if not guided properly, will become the biggest burden, cost, and detriment to society.

Section 472(c) contains another guideline which is much needed in the area of rehabilitation of juvenile delinquents. Too often, for lack of a better alternative—an alternative which will hopefully be provided by 472(a)—a court will send a youngster, who has acted in a way which is repugnant to either his family or his school, to a detention center where he is put in the same facility with an experienced criminal. For instance, it is common for parents or schools to go to the court, and evenutally to our prisons, for relief, when they find a child "hard to handle," "a runaway," or a "truant."

Section 472(b) guarantees that a child who has not committed an offense which would be punishable if committed by an adult will not be put in the same facility, nor treated like the juvenile who has committed the adult offense.

Section 472 (a) and (b) give the judge an opportunity to choose other alternatives while giving the juvenile a realistic chance for rehabilitation.

It is well recognized in the law enforcement community that one lasting solution to crime and the burdens of crime to society is to decriminalize certain behavior. Section 472(b) is an attempt to start this long and difficult road. In the case of the juvenile, it is an appropriate place to start, for a criminal record is most damaging to the one who must wear the label the longest.

Section 472(c) requires advanced techniques in the design of services and facilities and sets forth some suggested criteria. They are all self-explanatory and reflect the spirit of the prior language and are in keeping with the contemporary approaches to the correction of juvenile delinquency.

In order to assure that money will go to the needed areas throughout the respective States, it is specifically provided in section 474 that the Federal Government allocate 85 percent of the appropriated money to the respective State planning agencies, on the basis of their juvenile population—ages 11 to 17. It is understood that the State planning agencies, in turn, will pass on the money to the sections of the State in proportion to its juvenile population. The remaining 15 percent is discretionary money to be allocated on the basis of need according to the criteria, terms and conditions set forth by the LEAA.

Mr. President, I hope this bill will receive the Senate's full consideration and attention. It is a subject matter which underlines the Nation's stability and, more importantly, its future.

Mr. TOWER. Mr. President, I am pleased to cosponsor today an amendment to the Omnibus Crime Control and Safe Streets Act of 1968 which deals specifically with the problems of juvenile delinquency. It is imperative that decisive action be taken in this field of crime control and prevention, for today more than 50 percent of all major crimes are committed by juveniles. It is, therefore, to our great advantage to support efforts toward this end not only to decrease the rate of crime, but also to salvage those young people who have the potential for making positive contributions to society.

With the increasing awareness of the problem of youthful offenders, there has been an upsurge in efforts to control such crime both on the State and Federal level. Yet there is still much to be done. An integral facet of crime control is the treatment and rehabilitation of the offenders, since the great majority of juvenile crimes are committed by those who have been previous offenders. Thus, if more energies are exerted to rehabilitate delinquents, there would obviously be a tremendous decrease in the crime rate throughout the Nation.

Our society has too long tended to forget about juvenile delinquents and the progress which could be made toward rehabilitation with adequate facilities, trained personnel and a degree of interest and attention. We have too often allowed our juvenile detention centers to lapse into conditions which only convert juvenile delinquents into hardened adult criminals.

Many have seen recently the television documentary. "This Child Is Rated X". The sometime wretched conditions which were portrayed in that program give a good indication of why we must move quickly in this field. While we here in America are spending millions of dollars to go to the moon and to fight various diseases, which I certainly support, I believe that we can likewise afford to attack the problems of how to deal with and help our youth who have run afoul of the law.

Mr. President, what we are proposing today is a crash program designed to deal with immediate problems of juvenile delinquency now confronting our society, with continued long-range assistance. It is most important to give those currently residing in juvenile detention centers a chance for rehabilitation and to embark upon a program of juvenile crime prevention at the same time.

The measure would empower the Law Enforcement Assistance Administration to make direct grants to the States so that the States may undertake new programs in the field of treatment and prevention of crime by juveniles. The LEAA would be authorized to make grants to a State planning agency which would then devise a comprehensive program for the prevention of juvenile delinquency and the rehabilitation of the offenders. I think this type of Federal-State cooperation is the best means to achieve workable solutions. The Federal Government has financial resources and experienced professionals capable of helping the States to find solutions to existing and potential problems. Yet the States must have the privilege and responsibility of devising a program specifically tailored to the needs of the State itself.

To help in detecting and treating actual and potential juvenile delinquents outside of secure institutions, the legislation would establish community-based facilities, foster care and shelter homes. It would additionally provide for individual and family counseling, use and training of professional and paraprofessionals, and services within the public school system.

We all know that one of the truly great tragedies today is the growing drug problem among our Nation's youth. The increase in drug-related crimes among this segment of our society is well known. In this measure, we have clearly recognized the facts of this situation and designed a program to specifically deal with drug problems. Section 572(c)(1) encourages the use of advanced techniques in the design of services and facilities in a comprehensive program of drug abuse education and prevention. It also provides programs for the treatment and rehabilitation of drug-dependent youth. The creation of such a partnership between the States and the Federal Government will help correct one of the most serious problems we face in America today. I realize that the drug situation cannot be changed overnight, but this legislation would make a necessary commitment and involve the sharing of the expertise of the 50 States and the Federal Government. I hope that we will soon see results.

The Law Enforcement Assistance Administration, created by a measure which I likewise cosponsored in 1968, has an excellent record in getting new programs off the ground and making them effective. I know that LEAA is ready and willing to do the same with the program to bring aid to our Nation's youth who have turned to drugs for answers they felt they could not find elsewhere. I truthfully believe that this will go a long way toward helping to find a method for assisting the drug user and for keeping those young people who do not use drugs, far and away the greatest majority, from ever wanting to start.

Mr. President, in conclusion, I believe that this problem of crime and crime prevention among the youth of America

should be treated with the highest priority. The youth of today are the leaders of tomorrow, and it is up to our generation to do everything that we can to alleviate the current situation. Bleak and hopeless incarceration of rehabilitative youngsters must no longer be allowed to continue. Pilot projects in the area of rehabilitation of youthful offenders have demonstrated they respond very well to treatment and understanding. The rate of repeaters is considerably lower among those treated with modern techniques. There are many problems facing the Nation today, but there is none that is more deserving of our attention than the problem of juvenile delinquency. We are making a hopeful start here today with the introduction of this most important bill. I urge the Senate to follow this beginning with expeditious handling of this legislation.

Mr. BAYH. Mr. President, we are all aware of the alarming acceleration of juvenile crime during the past decade. We know that during the 1960's, violent crime by children under 18 has increased by 148 percent. Property crimes, such as burglary, larceny, and auto theft, have increased by 85 percent. We know, too, that persons under 25 now account for 59 percent of the crimes of violence and for 81 percent of the property crimes each year. Half of the arrests for major serious crimes are of young people under the age of 18. But what have we in the Congress done to meet this crisis?

The Subcommittee To Investigate Juvenile Delinquency, of which I am chairman, recently conducted hearings to examine the effectiveness of the Federal effort to prevent and control juvenile delinquency. The testimony of both Government and non-Government witnesses clearly indicated that there is little sense of the urgency and magnitude of the problem among those agencies that have some role in this effort.

Several months ago, as the first step in a program to restructure the Federal role in the prevention and control of delinquency, I introduced a bill to extend for 1 year the Juvenile Delinquency Prevention and Control Act of 1968, which is administered by the Department of Health, Education, and Welfare. It must be conceded that the record of HEW in administering the act has been dismal. Yet, it does have, or should have, a unique role to play in the juvenile delinquency field. It should be able to marshal an interdisciplinary approach with a primary focus aimed at prevention of juvenile delinquency.

Juvenile delinquency is not, and cannot be, the exclusive concern of a law enforcement body. Therefore, I was unwilling to let the responsibility of HEW end by the expiration of the 1968 Juvenile Delinquency Prevention and Control Act.

On Monday of this week, both the Senate and the House passed S. 1732 extending the life of Juvenile Delinquency Prevention and Control Act of 1968 for 1 year. The bill contained several amendments which will give HEW a better chance to improve its administration of the act and to coordinate its program with all other Federal agencies in the juvenile delinquency field.

By extending the life of the act for 1 year, we will have time to review the reasons for HEW's inadequate performance in the past and to develop ways to insure that the act will operate as an effective instrument in this vital and crucial area. S. 1732 is presently on President Nixon's desk awaiting his signature to become law.

The bill which I am cosponsoring today does not undercut, in any way, the necessity for the extension of the 1968 Juvenile Deliquency Act. Although HEW has failed to live up to its responsibilities in the juvenile delinquency field in the past, the same can also be said about the Department of Justice and its Law Enforcement Assistance Administration.

The hearings which my subcommittee recently conducted also clearly revealed certain shortcomings in the present approach of LEAA to juvenile delinquency prevention and control. The representatives of LEAA who testified before the subcommittee indicated that they did not feel that juvenile delinquency prevention and rehabilitation was one of their primary responsibilities. This is also reflected in the composition of the State planning agencies which are heavily weighted with law enforcement representatives who are more concerned with providing funds and equipment for law enforcement agencies.

At the time of the hearings, no specific unit within LEAA had been established to review the content and quality of the juvenile delinquency components of State plans. Further, it was explained that the relatively low proportion of LEAA funds being allocated to juvenile delinquency—14 percent in fiscal 1971—resulted from the general inadequacy of resources and from the allocation decisions of the individual State under bloc grants.

With at least half of the major crimes being committed by those under 18, it is apparent that LEAA is not insuring that anywhere near the proportion of its moneys are being spent where the need is greatest. Although LEAA exercises some review over the content of State plans, it does not feel that it should recommend a reordering of priorities to reflect a greater emphasis on juvenile delinquency prevention and control.

Today, I am introducing with Senators MATHIAS, COOK and 24 other Senators, a bill—the Juvenile Delinquency Prevention and Rehabilitation Act of 1971—which I believe will start improving LEAA's woefully inadequate performance in this area.

This bill will add a new part to the Omnibus Crime Control and Safe Streets Act of 1968, part F, designed specifically to provide massive assistance to State and local governments in developing and implementing delinquency prevention and rehabilitation programs. The thrust of the bill is to make the efforts of the Law Enforcement Assistance Administration more effective in meeting the special problems of juvenile delinquency and in authorizing adequate resources for getting the job done.

The bill which we are introducing today is designed to provide LEAA both with the authority and with the resources to launch a full-scale attack on juvenile crime. First, the bill adds an entirely new part to the Omnibus Crime Control Act, one which deals exclusively with juvenile delinquency. It authorizes an appropriation of $500 million for each of the next 2 fiscal years. Further, it requires that within 2 years, all state plans approved by LEAA must allocate 40 percent of their crime control money to juvenile delinquency programs. This will give the prevention and control of juvenile delinquency the same importance as LEAA's present focus on the problems of adult offenders.

The bill establishes broad guidelines for the expenditure of juvenile delinquency funds which reflect the views of people who have long worked in the field. For example, the bill requires that at least half of the funds a State receives under this part must be spent on the development and use of facilities designed to provide an alternative method of rehabilitating or detaining juveniles other than confinement in traditional training schools, reformatories, and detention centers. Witnesses who have appeared before my subcommittee have testified again and again that the large, custodial institutions generally used for the confinement of juveniles rarely succeed in rehabilitating their inmates. Rather, the conditions in these institutions usually produce physical and psychological damage which is permanent. The statistics confirm this tragic picture: the recidivism rate of institutionalized delinquents is the highest of any age group—74 percent.

The bill which we are introducing today will provide States with the incentive and with the resources to develop alternatives to these large institutions, such as group homes, halfway houses and research centers. Through the use of community-based services and facilities, juveniles will be able to receive the help they need while remaining in their communities, close to the families and friends so necessary to rehabilitative efforts.

The bill also provides for the separate treatment of children, who have engaged in conduct that would not be criminal if committed by adults, from those who have committed such offenses. Witnesses have told us repeatedly that approximately one-half of the children presently confined in large institutions for juvenile delinquents are there because they are runaways, truants, or who have destructive home situations. These children are victims of societal and parental neglect, and should not be treated in the same way as juveniles who have a history of criminal activity.

In order to provide the kind of care needed for a particular child, it is crucial to have adequate diagnostic facilities. Many localities do not have such facilities, and thus are unable to differentiate among the children sent to institutions in any meaningful way. The bill includes the development of diagnostic services on a statewide, regional, or local basis as a

requisite part of the State plans submitted to LEAA.

One of the most successful alternatives to institutionalization has been the probation subsidy program, which is now operating in several States. Under this program, a county or unit of local jurisdiction is reimbursed for every juvenile it retains in the community rather than sending to a State correctional institution. This program allows a child to stay at home while receiving intensive probation services, and, in fact, costs far less than institutionalization. Our bill provides for the development of these and similar probation programs, for the expansion and improvement of probation services in local communities, and for the training of probation officers.

One of the best documented problems facing our youth today is that of drug abuse. Not only do drugs destroy the lives of many young people, they are also the direct cause of serious delinquent behavior. Our bill provides for comprehensive programs of drug abuse education and prevention which will reach even the youngest children before they become hopelessly enmeshed in the destructive cycle of drug addiction and criminal activity. For those children who are already involved with drugs, our bill provides for rehabilitation and treatment programs. As many correctional authorities have indicated, drug abuse is a grave problem both within juvenile correctional institutions and in the communities in which the juveniles live. We must make a concerted attack on this evil if we are ever going to reduce the numbers of children for whom crime becomes a necessary way of life. And we in Congress must provide the resources and the authority to make such an attack successful.

Many of the early signs of delinquent behavior, or of problems at home, first show up in the schools. Any approach to delinquency prevention must include intensive services within the elementary and secondary education systems which will detect and divert from the juvenile justice system delinquent and potentially delinquent youth. Our bill emphasizes the need to develop such programs through the use of individual and family counseling, and other supportive services within the structure of the schools. Provision is also made for training professionals and paraprofessionals working with juvenile delinquents and predelinquents in all aspects of the problem.

Mr. President, we have reached a point of crisis in our juvenile corrections system. While we have enacted programs in the past, we have failed to followup on their actual performance. We have permitted the Federal agencies, such as LEAA, to treat juvenile delinquency prevention and rehabilitation as problems of secondary importance. The bill, will, we believe, make certain that this crucial problem is not given short shrift, but will be given the primary attention it deserves. Nothing is more important than saving our young people from a life of crime.

[This Act is Administered by the Law Enforcement Assistance Administration (LEAA), United States Department of Justice]

BRIEF ANALYSIS OF THE PROVISIONS OF THE JUVENILE DELINQUENCY PREVENTION AND REHABILITATION ACT OF 1971

(A Bill To Amend the Omnibus Crime Control and Safe Streets Act of 1968, as Amended (Public Law 90–351))

SECTION 1. This section of the bill contains the short title.

SEC. 2. This section amends section 303 of the Act. It provides (1) that a state planning agency must submit a juvenile justice component as a part of such state's comprehensive state criminal justice plan, and (2) an allocation of 40 percent of the Federal assistance funds for which the state is eligible to the juvenile justice component. States which do not comply with these two requirements would not receive their share of Federal LEAA funds. The effective date of these provisions is two years after their enactment.

SEC. 3. This section adds a new Part F to the Act entitled: "Grants For Juvenile Delinquency Prevention and Rehabilitation." This section provides for the funding of programs and projects in the field of juvenile justice, including prevention of delinquency and rehabilitation of delinquent youth. The requirements of the juvenile justice component are set forth in this section and include the following:

SEC. 3(a). This subsection limits funding of construction of traditional juvenile detention and correctional institutions to 50 percent of available monies under Part F. [Sec. 474(a)(1).]

SECTION 2. This section amends section 303.

SECTION 3.This section adds a new Part F.

SEC. 3(b). This subsection provides that juveniles who have not committed substantive, criminal offenses be treated under separate programs and in separate facilities. This would include runaways, truants, neglected children, person in need of supervision (PINS) and incorrigibles.

SEC. 3(c). This subsection provides for community-based prevention and rehabilitation efforts, including development of foster-care and shelter care facilities, group homes, halfway houses, and additional community-based residential facilities and services. The subsection provides further for diagnostic services and facilities and the expanded use of probation, the funding of probation subsidy programs, the recruitment and training of probation personnel, and community-oriented programs for probationers and parolees.

This subsection provides further for comprehensive drug abuse prevention and education programs and programs for the treatment and rehabilitation of drug dependent youngsters. It further requires a juvenile delinquency prevention effort which includes family and individual counseling, use and training of professional and paraprofessional personnel for work within the schools in order to detect, work with and divert youngsters who are either delinquent or potentially delinquent from the juvenile justice system.

SEC. 3(d). This subsection requires that personnel standards for work with delinquent and pre-delinquent youth include special training and qualifications to work effectively with such youth.

Additional sections of the Act provide for the promulgating of regulations; for the allocation of funds among the states according to the youth population 11–17 years (85 percent) and by discretion of LEAA (15 percent).

The Federal share of funding under this Act is 75 percent of the cost of any program or project.

The Act authorizes the expenditure of $500 million for each of two fiscal years, beginning on July 1, 1971.

By Mr. PEARSON:

S. 2149. A bill to authorize the establishment of the Tallgrass Prairie National Park, in the State of Kansas, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

TALLGRASS PRAIRIE NATIONAL PARK

Mr. PEARSON. Mr. President, I introduce, for appropriate reference, a bill to establish a Tallgrass Prairie National Park in Kansas. This proposed park will be a fitting and nationally significant preservation of the last remaining vestige of tallgrass prairie that once existed in a wide region of the Midwestern United States.

The concept of a prairie national park is not novel. There has been an interest in the preservation of significant samples of our grassland heritage for more than 40 years, with a wide variety of groups moving toward that end. In the early 1960's, a vigorous proposal for a prairie national park was launched. The interest generated then remains a strong influence favoring the proposed park.

It is particularly appropriate, however, that at this time we call once again for the preservation of what indeed may be termed the "vanishing prairie." While the park reflects the interests of conservationists and naturalists who antedate current environmental awareness, the establishment of this park also would be an integral part of that present movement. Let me briefly outline the rationale supporting the establishment of this park.

First, as a Senator from Kansas, I am conscious that in the vast expanse of land in the heartland of this Nation, there are acres of natural prairie which today face extinction unless they are preserved. I am in agreement with the program of the National Park Service, that we must do our utmost to preserve such latent natural areas as the Midwestern prairie. Today, little of the tall grass prairie, originally 400,000 square miles in extent, is left in its original condition.

In parts of eastern Kansas, however, one may still find tracts sufficient in size, 30,000 acres or more, to qualify as possible sites for a proposed Tallgrass Prairie National Park. While damage to these hilly, Kansas prairies has occurred from overgrazing, the land has never known a plow and only the erosion of some of the more precipitous escarpments mars the subtle beauty of the landscape, a defect that sufficient time will cure if the land is protected from further overgrazing.

In moist, rich bottom lands, ungrazed big bluestem and Indian grass once attained 8 or 9 feet in height along the eastern slope of the Flint Hills and the flat low plains eastward of it. To the west of the eastern edge of the Flint Hills and their northerly and southerly projections the dominant flora is the midgrass and farther west the short grasses predominate. There is still much good midgrass land remaining and many millions of acres of virtually unspoiled short-grass country in the high plains but the few remaining large tracts of the tall grasslands are in danger of being

parceled into small tracts by highways, power transmission lines, and impoundments. Time is growing nigh if we are to save a representatively large tract of the great, tall grasslands.

In addition to preserving this natural grassland, such a park would preserve a significant slice of American heritage. In the early days of this Nation, the way of life which this area represents extended uninterrupted from the Canadian border to Texas and from Indiana to western Kansas.

This vast, rich grassland which became known as the North American Prairie represented one of the richest resources of this Nation. It became a symbol of one of the most colorful and challenging eras in American history.

In this vast area there existed the essential environment to sustain a balance of native plant and animal life. It offered to all Americans the challenge of the frontier, the best of nature and an appreciation of the vastness of our country. Certainly this element of our Nation's greatness, this facet of our life and history should be included with others in our national park system.

Another factor, significant to Kansas at this time, is the economic impact of a park of this nature upon our State. Cost-benefit studies, to which we are accustomed in measuring the feasibility of water projects, are not easily applied to a project of this kind. Yet it is possible to devise some measure of benefits and cost by taking into account tourist visits and expenditures, investment and maintenance costs of the park facilities, loss of tax revenues, savings to local governments and other related factors.

Studies of earlier proposals suggested that Kansas' economy could expect a net increase in income from the existence of such a park in excess of $10 million a year. The diversification and expansion of the Kansas economy represented by the creation of this park is certainly a matter for the most serious study by all Kansans.

In a final perspective, it would be difficult to place the value that a tallgrass prairie park would have for countless generations in this country's future. How many people in this country have seen elk grazing in lowland prairies? How does one count out in coin a small boy's wonder at a mother buffalo, shaggy and dark, with her infant calf? Can these things be left to perish because we cared not enough to protect them? Is the last generation now alive whose members can stand on a prairie hilltop and view the horizon without seeing a powerline, a highway, a microwave station or some other reminder of the incessant hand of man?

People who love the prairie know it as a thing of wonder and beauty. They believe that future generations of Americans should have the opportunity of knowing what this land once was.

Mr. President, since the concept of the Prairie National Park has been approved by the National Park Service, congressional endorsement would add another chapter to our park, monument, and historic site program and would fill a void in this system of natural showplaces.

Mr. President, I ask unanimous consent that this bill providing for the establishment of a Tallgrass Prairie National Park in Kansas be printed in the RECORD at this point.

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

S. 2149

A bill to authorize the establishment of the Tallgrass Prairie National Park, in the State of Kansas, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of the influence of grasslands upon the progress and economic development of our country, and to preserve the scenic, scientific, and educational values of a representative portion of such lands for the inspiration and enjoyment of this and future generations, there is hereby authorized to be established in the manner hereinafter provided, the Tallgrass Prairie National Park, in the State of Kansas.

SEC. 2. The Secretary of the Interior is authorized to designate such land and interests in land in the State of Kansas as he determines are necessary and desirable to preserve representative portions of the tallgrass prairie lands and the native wildlife: *Provided,* That the area as designated shall not exceed sixty thousand acres.

SEC. 3. Within the area designated as the Tallgrass Prairie National Park pursuant to section 2 hereof, the Secretary of the Interior is authorized to procure land and interests in land through donation, purchase with donated or appropriated funds, or exchange.

SEC. 4 (a) The Secretary of the Interior shall administer the Tallgrass Prairie National Park, pursuant to the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented.

(b) The Secretary shall insure that public resources adjoining the park are adequately protected from fire, insects and other natural hazards; such protection to be commensurate with existing policies of the National Park Service.

(c) The Secretary shall provide trailways and roadways adequate to insure public use and enjoyment of the park area. These roadways shall not destroy the natural purposes of the park as set forth by the Secretary and the National Park Service.

(d) The Secretary is authorized to enter into cooperative agreements with the State of Kansas and its political subdivisions which will enhance or insure preservation of the park and promote the use thereof in accordance with the purposes of this Act.

SEC. 5. When the Secretary of the Interior has designated a boundary for the Tallgrass Prairie National Park pursuant to section 2 of this Act and has determined that sufficient land and interests in land have been procured by the United States to provide an administrable unit within such boundary, he shall declare the establishment of the Tallgrass Prairie National Park by publication of notice thereof in the Federal Register. Following such establishment, and subject to the aforesaid acreage limitation, the Secretary may continue to acquire lands and interests in land for the park as authorized in this Act.

SEC. 6. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

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

S. 2154. A bill to establish a program of interim emergency financial assistance to institutions of higher education having the greatest need for such assistance, and to determine means of improving the financial position of all such institutions and their future needs for assistance. Referred to the Committee on Labor and Public Welfare.

Mr. BEALL. Mr. President, on behalf on myself and Senator DOMINICK, I introduce today the "Emergency Higher Education Assistance Act of 1971." There has been considerable concern in the Congress and the country regarding the financial difficulties facing many of the Nation's colleges and universities.

In its December 1970 report, the Carnegie Commission on Higher Education warned that—

> American colleges and universities are in the midst of a financial crisis, unmatched in its impact in any previous period of history.

Maryland's institutions of higher learning have not escaped these financial difficulties as can be seen from the following:

St. Joseph's, a private institution, has already announced that it will have to close.

Johns Hopkins, one of the Nation's most prestigious institutions, faces severe and major financial problems.

The Maryland Legislature, in the last session, recognized these financial problems and passed legislation authorizing $500,000 for its hard-pressed private institutions.

In addition, I have corresponded with and have personally talked to many of Maryland's leaders in higher education. Many have emphasized to me the very serious financial problems that they face.

There are various pending proposals in the Congress. Congressman QUIE's bill, for example, which would provide general assistance to institutions of higher learning based on the number of degrees granted by such institutions. Congresswoman GREEN's bill would provide general aid based on credits earned. The administration recently also proposed institutional aid which would provide for an add-on based on certain federally assisted student aid programs. I personally have considered introducing similar measures or variations thereon, but I was not really satisfied with any of the formulas that I considered. I believe it important that we make the right decision on the higher education aid question for such decision will probably significantly shape higher education programs for the next decade.

During recent hearings on institutional aid, I outlined to Secretary Richardson my proposal. The Secretary encouraged me to pursue this approach, feeling that it was important, as we search for the best approach to the problems of higher education, that we consider all the various alternatives and possibilities. It is in that spirit that I today introduce the Emergency Higher Education Assistance Act of 1971.

This bill will authorize $150 million for interim emergency assistance to the Nation's institutions of higher learning which are in "serious financial distress" and in need of additional assistance either to continue its operation of the institution or to prevent "substantial curtailment" of its academic program to the detriment of the quality of education

available to its students. In the case of public institutions, the appropriate State agency would have to make a finding that such institutions were in need of emergency financial assistance. In the case of private institutions, such findings could be made by either the appropriate State agency or by the Commissioner of Education.

Institutions receiving such assistance would be required to disclose certain financial information to enable the Commissioner to determine the causes and sources of their financial distress and agree to conduct cost analysis studies and to implement any needed financial or operational reform as indicated by such studies, or to give reasons in writing for not implementing such recommended reforms.

Our hearings have indicated that present accounting procedures in higher education are greatly inadequate. Our Education Subcommittee simply could not get adequate answers as we attempted to secure basic information with respect to higher education. Indications are that universities and colleges are becoming aware of these shortcomings and some are indeed attempting to secure the basic date and to experiment with financial innovation and reform.

For example, George Washington University is now requiring an income-cost-comparison and cost-per-credit hour for each of the school's departments. We know that programs at the college level have proliferated in recent years and certainly an examination of such programs, including their costs, would be useful information to the institution, and valuable in making cost comparisons among similar schools. As the president of George Washington University commented with respect to that institution's new budget procedures:

> We will know more about our actual cost and our income than 90% of the colleges and universities of the country.

Not "all of our decisions, or even half of our decisions ought to follow the financial lines revealed by this information. But, without this information, you are still flying by the seat of your pants." Similarly, on the West Coast the University of Southern California has implemented strict cost accounting procedures which I understand have paid off. According to the University of Southern California's Business Office, operation and maintenance costs have declined from 11 percent of their operating budget in 1959 to 5 percent at the present. I ask unanimous consent that the article entitled "Cost Accounting at George Washington and USC" which appeared in the Editorial Research Reports on February 24, 1971, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BEALL. Mr. President, both the financial crisis facing many schools plus the need to use our resources wisely demand that we stop this "flying by the seat of our pants."

Second, the measure authorizes a study or studies of higher education financing. Through this study, it is hoped that the Nation will be given the additional information that will better enable us to determine the dimensions and causes of the financial distress and the formula we should employ in response to such financial problems. Furthermore, the studies would recommend the optimum roles for the Federal, State, and local governments as well as private donors in response to these dire financial problems. Authority is given for the contracting out of all or part of such studies as the Commissioner deems necessary.

Finally, the measure authorizes grants to institutions of higher learning to improve their planning and management capabilities. This suggestion generally follows that suggested by Dr. Ben Lawrence of the Western Interstate Commission for Higher Education who has done some of the most creative thinking on the subject of institutional aid that I have examined.

I intend to examine all of the pending institutional aid proposals. I offer this measure today in the hope that it might further the discusison and interest in this subject. I realize that the measure I propose is not perfect and if the Congress desires to go this route, we will need to add a maintenance of effort provision. Also, I am aware of the number of higher education institutions that we have and the difficulties the Commissioner may have with respect to determining which institution should receive the emergency assistance. We would have to explore this problem in detail. We could, for example, employ the peer review mechanism used successfully by the National Institutes of Health. It might also be useful to establish an advisory committee to frame criteria for assistance under this title.

There is general agreement in the country that no capable youth. interested in higher education should be denied the opportunity to receive such education because of financial reasons. The President repeated this pledge in his message of February 22, 1971:

> No qualified student who wants to go to college should be barred by lack of money.

Congress in recent years has instituted various forms of student aid to accomplish this objective and the Education Subcommittee is now in executive sessions studying even more complete and extensive legislation, including bills submitted by the President to carry out this commitment. It is an impressive record for according to the Office of Education figures—in 1968 this Nation appropriated $538 million to aid students in higher education. This appropriation was increased to $568 million in 1969, $633 million in 1970, and $784 million in 1971. As many as 1 million additional students could receive assistance under pending proposals. This is very commendable and it would seem that we are taking the necessary steps to meet our obligations and needs. I certainly endorse the President's historic commitment to assure that financial barriers do not exclude capable and interested students from pursuing their education.

I am concerned that our best intentions may fall short of the mark if we do not assist the Nation's institutions through this period of financial difficulty. All the forms of student aid will not assure the opportunity for higher education to those who merit it if the institutions are not available to them or if the colleges and universities cannot provide the services they seek. The facts are that many institutions of higher education are in a serious predicament, some even in desperate financial circumstances.

There are many reasons for the financial difficulties facing our colleges and universities. First, enrollment at our higher educational institutions has doubled during the last decade reaching 7 million last year. It is estimated by 1978 an additional 3 million students will be added raising the total enrollment to 10.3 million. Our colleges and universities are caught in a squeeze between increasing costs and declining revenues. Inflation has taken its toll on the colleges and universities as it has on other sectors of society. At the same time, the war babies were producing an unprecedented number in our college-age population. In addition, the trend toward a greater proportion of our population taking advantage of higher education continued. While I believe that the Nation's higher educational institutions have not given proper attention to cost effectiveness and I am convinced that greater productivity can indeed result in some areas, I am also aware that higher education is not an automobile for which mass production necessarily reduces the unit of costs. Then too, in recent years we have seen rather dramatic increases in faculty salaries as they became more competitive. Finally, with an increasing sense of responsibility higher education institutions have made extra efforts to attract and support disadvantaged and minority students.

Tuition fees have never paid for the whole cost of education. Federal and State and, private gifts, and endowment income must make up the difference. For a time the heightened appreciation of the importance of higher education to our national growth, especially to our scientific development, led to increases in these additional sources of revenue and enable the colleges and universities to absorb growing enrollment. But the need to cut expenditures and control inflation plus a decline in investment income brought a decrease in funds from these sources. The regular and rapid tuition fee increases have approached, particularly for the private schools, the saturation point and substantial further increases might price these colleges and universities out of the market.

Diversity among higher institutions of learning has always been valued in America and the recent Newman report expressed grave concern over the fact that our schools of higher learning had become "extraordinarily similar." Because private schools do offer independence and

48-059 O - 72 - pt. 17 - 9

diversity and creativity, one must be concerned with developments taking place in this century which have been accelerating in recent years. For example, between 1900 and 1950, an equal number of students were attending public as private institutions. Since 1950, the balance in enrollment between private and public schools has almost disappeared and today five out of every seven college students are enrolled in public institutions.

The percentage will continue to grow. Yet, our private institutions are vital to our whole system of higher education, without them our system of higher education could become stagnant and stale. They provide an important competition which improves the quality for all institutions of higher learning and I believe that we should insure their survival.

The measure I introduced today is designed to help the colleges and universities through this immediate period of difficulty and at the same time seek the information and support for a longer range policy.

Our institutions of higher education are a natural resource of immeasurable value. Despite higher education's problems, our colleges and universities have served the Nation well and have provided us with the leadership and talent absolutely essential for a leading nation in the world. As a member of the Education Subcommittee, I certainly will work with the administration, the committee, and educational leaders throughout the country in shaping a measure responsive to the financial needs of the education community and the educational needs of the country. It is my belief that the bill I introduced today will help contribute to the discussion that is taking place in the country with respect to institutional aid. The bill does address itself to the short term problem by providing immediate emergency aid, while requiring a study to find the long term answer to the financial plight of the Nation's colleges and universities. I am hopeful that this measure, perhaps in combination with some of the other proposals, might contribute to the finding of the proper approach. I ask unanimous consent that the text of this measure be printed in full in the RECORD.

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

S. 2154

A bill to establish a program of interim emergency financial assistance to institutions of higher education having the greatest need for such assistance, and to determine means of improving the financial position of all such institutions and their future needs for assistance

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 "Emergency Higher Education Assistance Act of 1971".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds and declares that—

(1) the Nation's institutions of higher education are a national resource which significantly contributes to the security, general welfare, and economy of the United States;

(2) considerable evidence has been advanced indicating that many institutions of higher education are in financial distress, some even on the brink of disaster, resulting from many factors, but including the institutions' efforts to enlarge enrollments, to improve the quality of education and training, and to enlarge educational opportunities, especially for the disadvantaged;

(3) various proposals have been presented to the Congress in response to this situation providing institutional or general assistance for the Nation's institutions of higher education, but insufficient information exists from which Congress or the Nation may determine either the extent, depth, size, or cause of the financial distress, the method or formula that should be employed in response to such financial distress, and the optimum roles of the Federal, State, and local governments and private organizations and individuals in response to these dire financial problems.

(b) It is therefore the purpose of this Act to provide institutions of higher education with interim emergency financial assistance, to determine the dimension of the financial crisis, means by which such institutions may improve their capabilities to deal with financial problems, and to secure the information from which the Nation may determine the need, desirability, and methods for providing additional necessary assistance to such institutions.

DEFINITIONS

SEC. 3. As used in this Act—

(a) the term "institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, (A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effect it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, and for the purpose of this clause, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered;

(b) the term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands;

(c) the term "nonprofit" means owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(d) the term "Commissioner" means the Commissioner of Education.

TITLE I—PROGRAM OF FINANCIAL ASSISTANCE APPROPRIATION AUTHORIZATIONS

SEC. 101. There is authorized to be appropriated for the purpose of making grants pursuant to this title not to exceed $150,000,000 for the period ending June 30, 1973. Sums appropriated pursuant to this section shall remain available until expended.

GRANT AUTHORIZATIONS

SEC. 102. Upon application therefor, containing such information and filed at such time, as the Commissioner deems appropriate for the purpose of this Act, the Commissioner is authorized to make grants to institutions of higher education for the purpose of this Act, giving priority to such institutions which are in greatest financial need.

APPROVAL OF APPLICATIONS AND CONDITIONS

SEC. 103. (a) The Commissioner shall not approve any application for a grant under this title unless he finds that—

(1) in the case of a public institution, the institution has submitted its application for emergency assistance to the appropriate State agency and such State agency has made a finding that such institution is in serious financial distress and is in need of assistance in order to continue its operation or that such institution, without additional financial assistance, will have to discontinue or substantially curtail its economic programs to the detriment of the quality of education available to its students;

(2) in the case of a non-public institution, the institution (A) has complied with clause (1), or (B) has submitted its application for emergency financial assistance directly to the Commissioner demonstrating that such institution is in serious financial condition and is in immediate need of assistance in order to continue its operation or that such institution without financial assistance will have to discontinue or substantially curtail its academic programs to the detriment of the quality of education available to its students, and has submitted a copy of such application to the appropriate State agency for comments, unless there is a Constitutional or other problem in which case the Secretary may waive the requirement for such submission; and

(3) such institution has a plan (and submits such plan with or as a part of its application) which provides a reasonable assurance that, if such grant is made, such institution will be able, during and after the period with respect to which the grant is made, to continue the educational services, programs and activities with respect to which a grant is sought in such application.

(b) Grants under this title shall be in such amounts and subject to such terms and conditions as the Commissioner determines to be reasonable and necessary, including requirements that the institution agrees (1) to disclose financial information determined by the Commissioner to be necessary to determine the sources of causes of the schools financial distress, (2) to conduct a comprehensive cost analysis study, including income cost comparisons and cost-per-credit hour for each department, in cooperation with the Commissioner, and (3) to consider, and either implement or give adequate reasons in writing for not doing so, any financial or operational reform recommended by the Commissioner for the purpose of improving its financial position.

(c) Amounts paid by the Commissioner to an institution under this title shall be used only for the purpose for which paid, and may be paid in advance or by way of reimbursement, and in such installments as the Commissioner may determine.

TITLE II—HIGHER EDUCATION FINANCIAL INFORMATION PROGRAM

HIGHER EDUCATION FINANCING STUDY

SEC. 201. In order to give the States and Nation the information needed to assess the dimensions of and extent of the financial crisis confronting the Nation's institutions of higher education, the Commissioner shall make, or arrange for, a study of the financial conditions of such institutions to determine the need, if any, the desirability, and the form that additional governmental and private assistance should take. Such study shall

include (1) an analysis of the various proposals presented to the Congress that provide general assistance to institutions of higher education, as well as other viable alternatives which in the judgment of the Commissioner merit inclusion in such study, (2) the costs, advantages and disadvantages, and the extent to which each proposal would preserve the diversity and independence of such institutions, and (3) the extent to which each would advance the national goal of making higher education accessible to all individuals having the desire and ability to continue their education. The Commissioner shall report the results of such study to the President and the Congress not later than December 1, 1972.

HIGHER EDUCATION PLANNING AND MANAGEMENT GRANTS

SEC. 202. (a) The Commissioner is authorized to make grants to (1) institutions of higher education receiving financial assistance under title I for the purpose of improving their planning and managing capabilities and to (2) other institutions of higher education for research and demonstration projects having national significance in improving the planning and managing capabilities of the Nation's institutions of higher education.

(b) No grant under this section shall be in an amount less than $15,000 nor more than an amount equal to the product of the full time enrollment of the institution (including the part-time equivalent in full time) times $5.

(c) There are authorized to be appropriated for the fiscal year ending June 30, 1972, and each of the two succeeding fiscal years, such amounts as may be necessary for the purpose of this section.

EXHIBIT 1

FINANCIAL INNOVATION AND REFORM IDEAS

Universities are notoriously inefficient in their accounting procedures. In an effort to help them make necessary financial reforms, the Ford Foundation has made grants to several institutions around the country, including a grant of $163,000 to George Washington University. It is a large urban university enrolling 15,000 students and embracing a complex of buildings in downtown Washington that includes a college of liberal arts, schools of law, engineering and medicine, plus a hospital and clinics. As recently as 1967–68, the university was able to live within its budget, then based on the collection of $16.7 million in student fees. But in 1970–71, in spite of enrollment growth and a rise in tuition, George Washington exists, in common with most other schools, on the borders of financial panic.

As director of the university budget, William D. Johnson is relying heavily on detailed cost accounting procedures to lead the school out of the financial wilderness, "As far as I know," Johnson told Editorial Research Reports, "we are unique in that we are concentrating on allocating the tuition dollar. We cannot run a deficit because we have no endowment to fall back on." The university has been able to keep its hospital, medical school and clinics open only with the aid of emergency federal funds. "Whether we considered the good of the community or the national shortage of medical personnel, it was not feasible to close the doors of the hospital, the medical school and the clinics," Johnson said. "Yet we had no money to operate, and it is impossible to finance this complex out of the tuition of the average student."

Apart from the problem of the medical center, the university is trying to survive by finding out just which academic departments are financially productive. "We can tell each department how much it 'earns'," Johnson said. "We are providing the faculty with the necessary information. They will have to make decisions about where to allocate funds." The university's budget office uses a formula to show an income-cost comparison and cost-per-credit-hour for each department.

By comparing a department's tuition and fee income with its direct expenses, it was discovered that in 1969–70, anthropology spent less than 20 percent of its "earnings" while chemistry spent 122 percent. Costs to the university per credit hour ranged from $12.32 for anthropology and $14.16 for political science up to $63.22 for physics and $83.11 for chemistry. Departments such as English are consistent money makers while those in the hard sciences are consistent losers. Accounting disclosures such as these will invariably raise questions of whether a university is willing to lop off some of its uneconomical courses—and to what extent it can do so without impairing its service to students and the community.

Administrators are frequently accused of viewing education through a haze of dollar signs. Yet many faculty members acknowledge that survival of the university depends on judgments about which departments and programs deserve subsidies and which do not. The president of George Washington University, Lloyd Elliott, is enthusiastic about the new budget procedures. "I think," he said, "that we will know more about our actual costs and, on the other side, our income, than 90 percent of the colleges and universities in the country." Not "all our decisions, or even half our decisions, ought to follow the financial lines revealed by this information. But, without this information, you're still flying by the seat of our pants." [1]

Strict cost accounting has paid off for the University of Southern California at Los Angeles, a private university which enrolls more than 20,000 full-time and part-time students. USC has actually managed to run modest surpluses within the past few years, a remarkable feat which is only partly attributable to its cost consciousness. Another part of its success depends on the fact that only 2,000 of its students live in campus residential halls. Basically a commuter school, it has few duties as foster parent and hotelkeeper—duties which are expensive. In addition, it has been highly selective in its programs—attempting to avoid duplicating those that exist at neighboring schools—and "until quite recently it has done little to build up its undergraduate College of Letters, Arts and Sciences." [2]

Nevertheless, the university is proud of its efficient business procedures. Each school and department is expected to be largely self-supporting and to live within its budget, which includes a regular assessment for university overhead. According to the USC business office, operation and maintenance costs have declined from 11 per cent of the operating budget in 1949 to 5 per cent at present. The internal auditing system checks any department which veers away from its budget; each department gets a monthly balance slip which indicates what funds are left for the remainder of the year. Critics of this business approach are pressuring the administration to improve the school's liberal arts program. But in the face of rising costs it seems unlikely that USC will relax the efficient business procedures which have made it solvent in an academic world filled with red ink.

By Mr. HUMPHREY:

S. 2155. A bill to establish a Drug Cure and Control Authority to coordinate Federal agency programs relating to drug abuse treatment, education, rehabilitation and law enforcement. Referred to the Committee on Labor and Public Welfare.

DRUG CURE AND CONTROL AUTHORITY ACT

Mr. HUMPHREY. Mr. President, in recent weeks the people of this country have been alerted again to the rising epidemic of drug abuse. The message comes from not only our cities and towns, but from thousands of miles away—in Vietnam where an estimated 30,000 to 40,000 of our servicemen may be addicted to heroin.

In my own home State in Minneapolis and St. Paul, heroin addiction has increased more than 25 percent in the last year. Public officials estimate that about 400 persons in the Twin Cities are taking hard drugs.

The increase of drug abuse by young people in Minnesota and elsewhere is particularly alarming. In New York City alone, there are more than 125,000 heroin addicts.

What I have attempted to do here briefly is to indicate that we have a drug problem both at home and abroad.

I make no proposal for achieving instant victory in any new war against drugs.

But much greater efforts are needed than current activities.

I believe we must mount an immediate major offensive to wipe out the growing meanace at its source. I mean stop the flow of drugs into this country and pick up the pushers.

Those who trade in drugs are murderers on the installment plan. They are killers who must be caught and penalized severely for trying to infect our society.

We must mobilize now, just as we would against cholera, or any epidemic that threatens our health and our lives.

I am introducing in the Senate today a bill to create a Drug Cure and Control Authority as an independent agency whithin the executive branch of the Federal Government.

I commend the administration for its concern in this area. But I believe the effort needs more coordination and high-level authority than what the President is suggesting in his program.

We must bring all enforcement agencies into the battle against the dope smugglers and the pushers, That means the FBI, CIA, the Customs Bureau, State and local law enforcement and many other agencies.

I believe if the CIA can ferret out subversives, it can find the drug smuggler. If the FBI can find saboteurs, it can find the pushers—and put them out of business.

I am proposing that there be established permanently two advisory councils, one on drug abuse control through education, treatment and rehabilitation and the other on law enforcement. This provision clearly recognizes the equal importance of both these approaches to solving the critical problem of drug abuse in America.

These advisory councils would be made up of officials from each Federal agency involved in drug education, treatment, rehabilitation, and law enforcement programs.

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[1] Quoted in *The Washington Post*, Nov. 23, 1970.

[2] Ernest Holsendolph, "A Tale of Two Universities, *Fortune*, February 1971, p. 136.

Five persons from the civilian sector also would be appointed to each of these panels to assure greater public participation in the fight against drug abuse and trafficking in narcotics.

The administrator of the Drug Cure and Control Authority would coordinate the efforts of these two advisory councils and assure that there are adequate programs for preventing the widespread abuse of drugs in our society.

He also would guide all special research and drug education programs.

Such a program aimed at coordinating all Federal efforts is absolutely essential today.

Finally, we need to serve notice on other nations that we will take strong action if they continue to be a source for illegal narcotics coming into this country.

If necessary, we should apply strong sanctions, including the cutting off of all of our assistance.

No nation is a true friend or ally if it fails to take action against narcotics traffic that poisons and kills our people.

Mr. President, the Drug Cure and Control Authority Act incorporates certain important provisions in other legislation before the Senate, directed at the major problem of drug abuse confronting our Nation today. Emphasis is placed in this act, however, upon the establishment of an independent authority with high-level advisory councils, within the Federal Government, to assure the employment of our total national resources to stop this widespread illness at its source and undertake its effective treatment and prevention.

I urge the Senate to act upon this vital national issue without delay.

Mr. President, I ask unanimous consent that the text of the Drug Cure and Control Authority Act be printed at this point in the RECORD.

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

S. 2155

A bill to establish a Drug Care and Control Authority to coordinate Federal agency programs relating to drug abuse treatment, education, rehabilitation and law enforcement

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Drug Cure and Control Authority Act."

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that there has been less than adequate information exchanged among Federal agencies necessary to mobilize and sustain an all-out campaign against drug abuse; that because of this lack of information and effort by several Federal agencies, it has been difficult to coordinate major efforts against drug abuse; that the effectiveness and efficiency of efforts to protect against further widespread abuse of drugs requires the full coordination of all Federal agency programs relating to drug abuse treatment, education, rehabilitation and law enforcement.

(b) It is the purpose of this Act to establish a Drug Cure and Control Authority that would implement recommendations from advisory panels to undertake a comprehensive Federal effort directed at the control of drug abuse and the elimination of illegal trafficking in narcotics.

DRUG CURE AND CONTROL AUTHORITY

SEC. 3. (a) There is hereby established an independent agency within the executive branch of the Federal Government to be known as the "Drug Cure and Control Authority" (hereinafter referred to as the "Authority"), having as its objective the control and cure of drug abuse.

(b) The Authority shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of five years. There shall be in the Authority two Deputy Administrators who shall be appointed by the President, by and with the advice and consent of the Senate, for terms of five years. At the time of his appointment by the President, one Deputy Administrator shall be designated by the President to serve as Chairman of the Advisory Council on Drug Abuse Control Through Drug Education, Treatment, and Rehabilitation, and the other shall be designated as the Chairman of the Advisory Council on Drug Abuse Control Through Law Enforcement. Each Deputy Administrator shall perform such additional functions as the Administrator may prescribe and shall, if designated by the Administrator, be the acting Administrator during the absence or disability of the Administrator. Upon the expiration of his term, the Administrator or any Deputy Administrator, as the case may be, shall continue to serve until his successor has been appointed and has qualified.

COMPENSATION OF THE ADMINISTRATOR AND DEPUTY ADMINISTRATORS

SEC. 4. (a) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(20) Administrator, Drug Cure and Control Authority."

(b) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(56) Deputy Administrators, Drug Cure and Control Authority (2)."

STAFF

SEC. 5. (a) The Administrator may appoint such personnel as he deems desirable without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may fix their compensation without regard to the provisions of Chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive compensation in excess of the annual rate for grade GS-18 of the General Schedule.

(b) The Administrator may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule.

(c) Upon request of the Administrator, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to the Administrator to assist him in carrying out his duties under this Act.

(d) The Administrator may secure directly from any Federal agency information necessary to enable him to carry out the provisions of this Act, and upon the request of the Administrator, any such Federal agency shall furnish such information to the Administrator.

DUTIES AND FUNCTIONS OF ADMINISTRATOR

SEC. 6. (a) The Administrator shall, in consultation with the appropriate advisory council established pursuant to Sections 7 and 8 of this Act, carry out the following functions and duties—

(1) INTERGOVERNMENTAL DRUG ABUSE PREVENTION, TREATMENT, AND REHABILITATION PROGRAM.—The Administrator shall prepare for the President a comprehensive program for the cure of drug abuse in the United States, including a program for coordination of Federal programs with those of State and local governments. Such programs may provide for—

(A) stimulation of an expanded research program to create a synthetic analgesic to replace opium and its derivatives in medical use;

(B) stimulation of an expanded research program into the development and dessemination of a long-lasting blocking or antagonistic drug for treatment of drug addiction;

(C) stimulation of expanded research into the development of a detoxification agent, which, when administered, will ease the physical effects of withdrawal from heroin addiction;

(D) development of programs of methadone maintenance, with appropriate supporting services, or similar programs for any methadone substitute, if and when developed;

(E) development of programs for the control of the production and distribution of psychotropic substances including a program for the development of a computer capability to monitor their manufacture, distribution, and dispensing; and

(F) development and evaluation of drug abuse prevention education programs.

(2) INTERNATIONAL DRUG CONTROL PROGRAM.—The Administrator shall prepare for the President a program for the effective use of facilities and personnel of governmental and international organizations in controlling drug abuse, including law enforcement programs. Such program may provide for—

(A) the offer to international organizations or foreign countries of technological assistance including—

(i) advanced computer technology,

(ii) the use of infrared sensors and radioactive and chemical tracer elements,

(iii) sophisticated administrative techniques, and

(iv) agricultural expertise for use in crop diversification; and

(B) effective cooperation with international institutions (such as the World Health Organization, the Food and Agricultural Organization, Interpol, and international lending agencies) for the development, implementation, and financing of crop diversification programs, alternative employment opportunities for persons engaged in drug production and distribution, and methods of controlling the international traffic in drugs subject to abuse.

(3) COORDINATION OF FEDERAL, STATE, AND LOCAL PROGRAMS.—The Administrator shall prepare for the President a plan for the coordination of drug abuse cure and control programs among the various Federal agencies which carry out such programs, and between such agencies and State and local agencies which carry out similar programs, including—

(A) law enforcement programs of the Department of Justice, the Treasury Department, and of State and local governments;

(B) medical research and treatment programs of the Department of Health, Education, and Welfare, the Veterans Administration, the Office of Economic Opportunity, and of State and local governments;

(C) technological research conducted by the Department of Defense, the National Aeronautics and Space Administration, and of State and local governments;

(D) agricultural research and technical assistance programs of the Department of Agriculture, and of State and local governments;

(E) programs utilized to reach large numbers of potential drug abusers, including programs located in the Offices of Education and Child Development in the Department of Health, Education, and Welfare, in the Department of Defense, in the Department of Housing and Urban Development, in the

Office of Economic Opportunity, and in State and local governments; and

(F) international programs developed or implemented by the Department of State or the Agency for International Development.

(b) Upon approval by the President of a plan submitted under subsection (a), the Administrator shall carry out such plan. The President shall take such administrative action, and shall submit to Congress requests for such legislation, as may be necessary to enable the Administrator to effectively carry out each such approved plan.

(c) The President shall transmit to each House of Congress each approved plan prepared by the Administrator and every six months after a plan is transmitted to Congress the President shall make a report to each House of Congress describing the activities undertaken pursuant to the plan and any revisions made in the plan.

(d) The Administrator may, from time to time, make recommendations to the President, with respect to—

(1) the expenditure of funds by Federal departments and agencies for programs related to drug abuse control, including, but not limited to, law enforcement, the fields of agriculture, education, training, health and welfare, defense, foreign affairs, commerce, border control, and manpower; and

(2) such additional, Federal, State, and local legislation as the Administrator deems necessary to further the purposes of this Act.

ADVISORY COUNCIL ON DRUG ABUSE CONTROL THROUGH LAW ENFORCEMENT

SEC. 7. (a) There is hereby established in the Authority the Advisory Council on Drug Abuse Control Through Law Enforcement, which shall be composed of the following members:

(1) the head of each Federal agency (or his designee), who is charged with the administration of any law or program involving the control of drug abuse through law enforcement;

(2) five members appointed by the President of the United States from persons specially qualified by training and experience to perform the duties of the Council, none of whom shall be an officer or employee of the United States; and

(3) the Deputy Administrator designated by the President as the Chairman of the Advisory Council on Drug Abuse Control Through Law Enforcement.

(b) Any member appointed pursuant to paragraph (2) of subsection (a) shall be appointed to serve for a term of six years. Any such member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Members appointed pursuant to such paragraph (2) shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office. A vacancy in the Council shall not affect its activities.

(c) The Council shall meet at the call of its Chairman, but not less than four times during each twelve-month period.

(d) It shall be the duty of the Council to consult with, advise, and assist the Administrator in the development and execution of programs under this Act involving or relating to the control of drug abuse through law enforcement.

(e) The Administrator of the Authority shall designate a member of the staff of the Authority to act as Executive Secretary of the Council.

(f) The Council shall submit a report to the President for transmittal to the Congress not later than January 31 of each year on the progress of the Authority toward the accomplishments of its objectives under this Act involving or relating to law enforcement in connection with drug abuse control.

(g) Members of the Council who are not officers or employees of the United States shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, for each day they are engaged in the actual performance of their duties, including traveltime and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

(h) The Administrator shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities.

ADVISORY COUNCIL ON DRUG ABUSE CONTROL THROUGH DRUG EDUCATION, TREATMENT AND REHABILITATION

SEC. 8. (a) There is hereby established in the Authority the Advisory Council on Drug Abuse Control Through Drug Education, Treatment and Rehabilitation, which shall be composed of the following members:

(1) the head of each Federal agency (or his designee), who is charged with the administration of any law or program involving drug education, treatment, or rehabilitation;

(2) five members appointed by the President from persons specially qualified by training and experience to perform the duties of the Council, none of whom shall be an officer or employee of the United States; and

(3) the Deputy Administrator designated by the President as the Chairman of the Advisory Council on Drug Abuse Control Through Drug Education, Treatment and Rehabilitation.

(b) Any member appointed pursuant to paragraph (2) of subsection (a) shall be appointed to serve for a term of six years. Any such member appointed to fill a vacancy occuring prior to the expiration of the term for which his precedessor was appointed shall serve only for the remainder of such term. Members appointed pursuant to such paragraph (2) shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office. A vacancy in the Council shall not affect its activities.

(c) The Council shall meet at the call of its Chairman, but not less than four times during each twelve month period.

(d) It shall be the duty of the Council to consult with, advise, and assist the Administrator in the development and execution of programs under this Act involving or relating to the control of drug abuse through drug education, treatment or rehabilitation.

(e) The Administrator of the Authority shall designate a member of the staff of the Authority to act as Executive Secretary of the Council.

(f) The Council shall submit a report to the President for transmittal to the Congress not later than January 31 of each year on the progress of the Authority toward the accomplishments of its objectives under this Act involving or relating to the control of drug abuse through drug education, treatment and rehabilitation.

(g) Members of the Council who are not officers or employees of the United States shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, for each day they are engaged in the actual performance of their duties, including traveltime and, while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703, title 5, United States Code, for persons in the government service employed intermittently.

(h) The Administrator shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities.

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. ERVIN:

S. 2156. A bill to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of the polygraph for certain purposes. Referred to the Committee on the Judiciary.

A BILL TO PROTECT AGAINST INVASION OF PRIVACY BY PROHIBITING LIE DETECTORS

Mr. ERVIN. Mr. President, I introduce, for appropriate reference, a bill to protect the constitutional rights of citizens and to prevent unwarranted governmental invasions of their privacy by prohibiting the use of the lie detector in certain instances. I ask unanimous consent that the bill be laid on the table for additional cosponsorship.

The new technology and the behavioral sciences hold out many new alluring devices which are supposed to help men obtain and measure the truth about other men.

Probably no instrument of modern times so lends itself to threats to constitutional guarantees of individual freedom as the polygraph, or so-called lie detector. Like the primitive tests of medieval times, this device, in the hands of unwise officials of the Federal Government and others, has been used to compel American citizens to disclose all manner of personal information. They have been compelled to disclose such information despite the guarantees of the first amendment which protect the rights of the individual to the privacy of his mind, to the free exercise of his right to speak his thoughts as well as his right not to speak them. The machine is used to try to compel the individual to disclose social and legal offenses despite the guarantees of the fifth amendment to the Constitution which provides the right against self-incrimination.

This instrument is used by Government and private industry to determine the fitness of individuals for employment, for promotion, for dealing with security information, or to determine ethical misconduct or violation of personnel regulations. They use it for these purposes despite the guarantees of our Constitution which assure due process of law and require basic fairness in the treatment of all individuals where such a basic right as the right to work is concerned.

They use these machines in such cases despite the fact that there is no clear scientific proof that they prove anything or predict anything for employment purposes.

Polygraphs merely attempt to measure physical reactions, such as respiratory changes and skin perspiration, to questions of a personal, controversial or stimulating nature which are posed to the subject under conditions approximating a medieval torture chamber.

Contrary to the belief of those who use them, lie detectors do not register the

lie or the truth automatically. The measurements must be "interpreted" by the operator. Contrary to the theory of this machine, it is not a man's sweat which determines if he is telling the truth, but the inference which the polygraph operator draws from the sweat or other physical signs as they are registered by the machine. It is the operator's judgment of the readings, not some demonstrated scientific fact, which determines the official conclusion about the truthfulness of the individual's response. These readings may vary from person to person, and so the "interpretations" must also vary with the character and personality of each subject. A brazen liar or hardened criminal, or a person with no cultural belief about right or wrong, may breeze through a lie detector test, while an innocent, honest, introspective, sensitive person might be nervous or hostile and make the machine register the "wrong" answer.

Lie detectors are used on innocent, law-abiding Americans applying for jobs despite the fact that the courts of our land have wisely rejected the results of lie detector tests for criminals and those suspected of crime.

The Supreme Court of North Carolina, for example, in the case of *State* v. *Foye*, 254 N.C. 704 (1961) listed a number of reasons why courts have not accepted lie detector evidence as a reliable or accurate means of ascertaining the truth or disclosing deception. Chief Justice Winborne stated the following in his decision:

> The courts of this country, in the absence of stipulation, have uniformly rejected the results of lie detector tests when offered in evidence for the guilt or innocence of one accused of a crime, whether the accused or the prosecution seeks its introduction.
>
> The reason most commonly assigned for the exclusion of such evidence is the contention that the lie detector has not yet attained scientific acceptance as a reliable and accurate means of ascertaining truths or deception.
>
> Furthermore, these authorities show that the lie detector tests prove correct in their diagnosis is about 75% of the instances used. In other words, such factors as mental tension, nervousness, psychological abnormalities, mental abnormalities, unresponsiveness in a lying or guilty subject account for 25% of the failure in the use of the lie detector.
>
> These devices are unlike the science of handwriting, fingerprinting, and X-Ray, which reflect demonstrative physical facts that require no complicated interpretation predicated upon the hazards of unknown individual emotional differences, which may and oftentimes do result in erroneous conclusions.

The legislatures of our land have also expressed themselves against the lie detector.

Twelve States and three municipalities have so far wisely legislated to prohibit or restrict the use of polygraphs on employees.

The Senate by an overwhelming vote in the last two Congresses has expressed its disapproval of the way these machines are used as a form of economic coercion to intimidate applicants and employees into revealing their innermost thoughts and feelings. The Senate did this by its approval of the Federal employee privacy bill which, among other protections for employees and applicants, protects the individual against governmental soliciting of his views on religious beliefs and practices, sexual attitudes and conduct, and personal relationships with members of his family.

Although this omnibus employee privacy bill has died in the last two Congresses, it is again pending as S. 1438 and has 51 Senate cosponsors.

The House Committee on Government Operations after years of intensive investigation demonstrating the fallacy of the lie detector, issued a conclusion which stated—

> There is no "lie detector," neither machine nor human. People have been deceived by a myth that a metal box can detect truth or falsehood.

Despite these judicial and legislative findings, some agencies of the Federal Government persist in using these devices, while others, if they do not use them, may take note of the personnel reports based on such tests required to be taken by the individual in private industry or in military life.

Two cases which were reported to me illustrate the way these machines violate the constitutional rights of applicants or employees.

The Subcommittee on Constitutional Rights received a letter from a young veteran just returned from Vietnam with a good military record and an honorable discharge. He described his efforts to obtain a job of any kind in law enforcement. His case shows how the records of a lie detector test can find their way into the official records of Government and industry, even when the test is not required by an employer.

This veteran applied for a local law enforcement job and was required to take a lie detector test in which he was asked a great number of questions about his relatives, his family life, and his personal life.

For instance, he was asked to describe in detail his life in Vietnam.

He was asked to provide the names of any girls with whom he had had sexual relations and when.

He was asked whether or not he had ever tried marihuana or any other drug.

He was asked whether or not he dated very much.

And many other questions.

He was told that there was nothing in the results of his test to disqualify him for the job of radio dispatcher that he applied for, but he did not take that job, because he decided he wanted a temporary job, right then.

Later, he applied with the Metropolitan Police Force and was turned down. The department did not give him a polygraph test. An official referred to the test he had taken in connection with the other job.

He then applied for a job with the Park Service of the Interior Department. There he was given extensive testing and psychiatric evaluation as part of the appointment process. Again, someone apparently had access to the report on that lie detector test, for he was asked questions based on it, and, he was turned down. One official told him that his problem was that the Department had too much information on him for the purpose. At no point did any of these officials seek his excellent military record, or try to obtain the report of the secret clearance he had been given by the Army. Nor did they take into account the strenuous and stressful duties he had been assigned in combat in Vietnam.

The National Security Agency of the Army routinely gives students polygraph tests as part of its recruiting program.

The subcomittee was told that in 1 year the National Security Agency and the Central Intelligence Agency gave 9,000 tests.

Just last week, the subcommittee received a letter from a student describing his experience with the National Security Agency polygraphs. He writes:

> At first I was seated upright in a chair with my back to a wall in a rather small room. To my right was the only door and to my left was a mirror on the wall, about five feet square. I was told that the interview would be photographed by a camera behind that mirror, with all speech also recorded on tape. Immediately before me, against my knees, was the large polygraph machine, which occupied nearly half the floor space in the room. Behind it sat the interrogator. I suppose I remained in that little room for nearly three hours. However, the polygraph remained turned off through more than half the interrogation, sitting there to remind me that anything I said might be checked by it. Finally the machine was turned on, my chair was rotated a bit, with the reclining back lowered so that I faced the ceiling and the top of the wall mirror, after attachments were made to my body. Galvanic skin response was also involved. I was encouraged to relax in the reclining position.

He said he had to give "yes" or "no" answers to such questions as:

Are you a Communist?

Have you had any employers you have not listed?

Have you ever been court-martialed?

Have you ever taken drugs of any kind?

He was asked extensive questions about his sexual conduct, and if he knew the meaning of certain terms, such as fellatio.

He was asked to give the name and address of a person with whom he had a sexual relation.

He was told to defend his statement that he considered himself a liberal rather than a radical.

He was asked repeated questions about whether or not his relatives or he had ever known any Communists or aliens.

He was asked to describe contents of letters he had exchanged with others.

All of these and many other questions were asked under penalty of perjury. The last question to him was:

> Have you withheld any information from us?

He was told by the interrogator that one purpose of the test is to determine how honest and truthful he could be with the Government.

Mr. President, I think there is no place in the American constitutional system for the use of 20th century witchcraft to determine if a man is fit for any job.

Furthermore, even if, somehow, enough scientific research is done to assure that these machines do what their proponents

think they can do, their use in employment is more appropriate to a police state than a free society.

Even if they could be proved 100-percent reliable and valid, even if there were a necessity for them, I believe we should respond with William Pitt:

Necessity is the plea for every infringement of human liberty. It is the argument of tyrants; it is the creed of slaves.

The AFL–CIO maritime trades department issued an excellent comprehensive report on "The Lie Detector" last year which details the use of the machines and recommends a legislative ban on them for employment purposes.

Mr. President, the wealth of considered opinion on the unreliability of lie detectors and the unfairness of permitting them to be used as a test of employment has persuaded me that the time has now come for Congress to express itself against their use. For that reason I am today introducing this bill.

The bill prohibits the use of lie detectors as a basis for considering the employment application of any person for a Federal job. It prohibits both the requirement of a lie detector test as a condition of employment as well as the request to take one, since it is a matter of economic reality that even a request to take a lie detector test is the equivalent of a command in the Federal job market.

The bill also prohibits the use of lie detectors once employment is obtained. They may not be used for purposes of denying promotions, for discharges, or for disciplinary action.

For willful violations, the bill provides a penalty of a maximum of 1 year in prison and $1,000 fine or both.

Based on its power over interstate commerce, Congress, if the bill is enacted, would also prohibit in like manner the use of lie detectors for employment purposes in any business or other activity affecting commerce.

In addition to the criminal penalty for willful violations, the bill permits civil enforcement as well. Any person aggrieved by a violation of this prohibition could sue for civil relief, including an injunction and monetary damages. The case would be heard in Federal court.

Mr. President, I ask unanimous consent that excerpts from the Maritime Trades report together with an article from the New York Times of February 15, 1970, and the text of a speech on this subject which I prepared for delivery before the Greensboro, N.C., Bar Association, be printed in the RECORD following my remarks, together with the text of the proposal.

There being no objections, the materials referred to were ordered printed, as follows:

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

EXHIBIT 1

(Excerpts from the "Lie Detector": Guilty Until "Proven" innocent—a report on invasion of privacy in America)

WHO USES THE LIE DETECTOR

Although the polygraph's practitioner's and users display no reluctance about making claims for the effectiveness of the "lie-detecting" equipment and techniques, they exhibit a singular reticence in talking about this use in quantitative terms.

Among the users—industry, governmental agencies and police agencies—the underlying reasons for employing the polygraph vary widely. But among the users there is one unifying theme—a uniform reluctance on their part to discuss the matter, particularly in terms of the number of tests that are given.

In this they are abetted by the polygraphers. John E. Reid, for example, indicated that his clients were divided approximately "50–50" between private industry and "criminal cases," but beyond this he could give no definite statistics. This is typical. Polygraph firms are either unwilling to disclose figures on users and usage, or else are unable to do so because they have compiled no reliable data on the subject.

Despite this barrier of silence, it is possible to develop some information on the way "lie detectors" are employed and the reasons for their use, together with some statistics which bear on the use of these devices.

INDUSTRY AND THE POLYGRAPH

Industrial firms which use the "lie detector" run the gamut of America's economy.

Many use polygraphs in an attempt to halt the theft of such state and federally regulated products as narcotics and alcohol—hence, drug and liquor manufacturers, hospitals and even doctors' offices, are frequent clients for polygraph agencies.

Businesses such as electronic and chemical companies, which produce expensive products and which are concerned about possible theft of material or industrial espionage, frequently employ "lie-detector" firms or maintain their own staff of examiners.

Banks and investment firms, whose employees customarily handle large sums of money, have been among the more active users of polygraphs. So have mail order houses, discount shops, clothing and shoe stores, a leading restaurant chain, tobacco stores and supermarkets.

Use of "lie detectors" on a regular basis has been found among delivery companies and freight movers—where "pilferage" has been a common complaint for years. But the devices are found, as well, among copper refiners, steel producers, rubber manufacturers, food and oil processors and meat packers.

Industry employs "lie detectors" both for pre-employment "screening," and for on-going "surveillance" of its work force. The reasons most often cited are these:

For pre-employment screening

"Verifies truthfulness of employee's application."

"Determines applicant's intentions about the permanancy of his employment."

"Screens out potential thieves."

"Eliminates potential claims for unemployment insurance, disability benefits and workman's compensation."

"Reduces employee turnover."

"Prevents industrial espionage."

"Reveals undetected crimes."

For on-going "surveillance"

"Promotes better employer-employee relations."

"Keeps workers honest."

"Rehabilitates valued employees whose larceny might otherwise cost them their job."

"Lowers the cost of bonding employees."

"Increases savings, thereby resulting in larger employee benefits."

"Protects the innocent from the guilty."

"Screens out misfits."

These claims have largely been spelled out in pro-polygraph literature, without attribution to any specific firm or industry. While some of them are, on their face, laudable as *goals*, others (e.g., "rehabilitates valued employees whose larceny might otherwise cost them their jobs") are downright ludicrous. No evidence has been offered to substantiate these claims, and so they must stand for exactly what they are—merely an attempt to justify the use of the polygraph to achieve management's goals.

Not all of the reasons for using the "lie detector," however, are laudatory. Unions have encountered instances in which management has utilized the polygraph to quiz employees on their union activities in violation of federal labor law—and the record is replete with instances in which, via the "lie detector," employees have been subject to inquisition on such subjects as personal finances, drinking habits, sexual activities, marital relations and even political beliefs, all of which are hardly job-related.

GOVERNMENT AND THE POLYGRAPH

Government's use of the "lie detector" was put under the spotlight of public examination six years ago, when a House Government Operations Subcommittee, headed by Representative John E. Moss (D-Calif.), conducted a searching inquiry into this practice.

By the time the hearings had been completed, a picture emerged of 19 federal agencies which employed the polygraph for security, criminal misconduct, personnel screening and medical measurement purposes.

Of these reasons, "security" was given the most often—by 14 of the federal agencies, in fact. But the word was never really defined, and the question logically arises as to how broadly "security" might be interpreted by some bureaucrats, and how often the word was used as a subterfuge to mask the extent to which these devices were in use.

The Moss Subcommittee uncovered some 20,000 "lie-detector" tests which had been given in fiscal 1963. Even this failed to reveal the full dimensions of the situation—because the testing given by the Central Intelligence Agency and the National Security Agency was not included. Both agencies are exempt, for national security reasons, from supplying statistical data, and the Subcommittee had to content itself with reporting "extensive polygraph use" by the CIA and the NSA, without being able to go into detail.

In the glare of the public spotlight, there was a general overhaul of "lie detector" procedures within the federal government—and, along with the overhaul, came a sharp reduction in the reported instances of this type of testing. A comparison between the figures reported by the Subcommittee and subsequent data uncovered by the staff in the process of preparing this report is instructive, because it shows quite clearly what can be accomplished in the way of inhibiting the use of these devices, provided the public is aware of the problem and is aroused over it.

Post Office Department

At the time of the Moss Subcommittee hearings, the Department reported it had given 338 "lie-detector" tests during fiscal 1963, using its own 17 polygraph machines, and that it had had an additional 134 tests conducted by other agencies—a total of 472 tests over a 12-month period. At that time, the Department said the polygraph was used in "cases of more than average importance where the investigation is at a standstill because the inspector cannot prove a suspect guilty or eliminate him from suspicion even though he has exhausted all normal investigative techniques." The current practice is more modest, according to Chief Inspector W. J. Cotter, who said, in response to a questionnaire sent out on behalf of the MTD, that the "number of examinations varies considerably from year to year, but averages about 190 per year." Polygraphs are used, Inspector Cotter said, "as an investigative aid in serious criminal cases." Subsequently the Post Office Department informed the Na-

tional Association of Special Delivery Messengers that these cases involve major thefts, that employee participation is on a "strictly voluntary basis," and that no record is kept of an employee's refusal to submit to such a test.

Navy Department, Office of Naval Intelligence

The Moss Subcommittee showed that this branch of the Navy conducted some 1,200 polygraph examinations in fiscal 1963. In response to the MTD questionnaire, J. W. Lynch, assistant director for investigation, indicated that this number escalated to 3,113 in fiscal 1964. Although "precise statistical data" for the ensuing fiscal years was not available, Lynch declared that "the number of examinations conducted during this period continuously decreased," and that the figure was now "stabilized at its present level of approximately 500 examinations per annum."

U.S. Coast Guard

The report of the Moss Subcommittee showed that the Coast Guard had conducted 171 polygraph examinations on its own in fiscal 1963, with another 28 tests handled by other agencies—a total of 198 examinations. Rear Admiral R. Y. Edwards informed the staff conducting this MTD study that the figures stood at 176 tests in fiscal 1964, 77 tests in fiscal 1965 and 10 tests in fiscal 1966. There have been no tests given since then, he declared. The Admiral added: "The polygraph was used by Coast Guard Intelligence investigators as an investigative aid in certain criminal violations of the Uniform Code of Military Justice. It was never used in conducting pre-employment interviews."

U.S. Marine Corps

In fiscal 1963, according to the Moss Subcommittee report, this agency conducted 812 polygraph tests. Responding to the MTD questionnaire seeking additional information on tests conducted in the period since that time. Brigadier General J. W. Hubbard, director of the Marine Office of Public Information, scrawled the word "non" across the eight questions and signed his name. Because it seemed incredible that this testing would have been stopped this abruptly, further information was requested. No reply has thus far been forthcoming.

Department of Defense

One of the major sources for "lie-detector" testing in fiscal 1963 was the Defense Department, with the Moss Subcommittee reporting a total of 12,641 such examinations conducted. (The figures broke down this way: Army Intelligence, 8,094; Army Military Police, 4,400; Defense Atomic Support Agency, 140; and Defense Supply Agency, 7.) Replying to the MTD questionnaire for the Defense Department was Charles M. Trammell, Jr., director, Security Plans and Programs Division, Directorate for Security Policy in the Office of the Assistant Secretary of Defense. "The statistical data provided to the House Committee on Government Operations for fiscal year 1963," Mr. Trammell said, "resulted from a special, one-time research project initiated by the DOD in response to a specific Congressional request." Mr. Trammell added that "stringent controls" of Department polygraph operations, issued on the heels of the Moss Subcommittee report, "obviated the need to compile such data on a recurring basis." All testing being conducted by these agencies, he said, is carried out under the terms of a new directive, which, he said, "stresses the voluntary aspect of polygraph examinations and clearly defines those purposes for which polygraph examinations may be conducted." Whether the number of tests has been reduced, as well, is something else again.

U.S. Air Force

This agency, said the Moss Subcommittee report, conducted 1,912 polygraph examinations in fiscal 1963. Colonel L. J. Churchville, Chief of the Public Information Division, Office of Information, said that information on the number of tests given in the years since then was not available, and could be obtained only by "extraordinary research through many individual records by limited manpower." Col. Churchville indicated that the polygraph examinations "are authorized only in connection with counter-intelligence, major criminal, and personnel security investigations. No adverse action may be taken against anyone refusing to take a polygraph examination or for unwillingness to volunteer to take a polygraph examination."

U.S. Information Agency

The Moss Subcommittee report showed one test conducted for this agency by an outside source in fiscal 1963. Since then, according to Eugene Rosenfeld, assistant director for public affairs, one test was conducted each year in fiscal 1964 and fiscal 1965. "The purpose of the tests," said Mr. Rosenfeld, "was to assist in resolving cases involving the interests of national security." He gave no information beyond that statement.

Justice Department

The Moss Subcommittee report showed this department involved in 195 examinations during fiscal 1963—20 of which were conducted for the Narcotics Bureau, 65 more conducted by the Secret Service, and another 110 conducted by other agencies on request of the Secret Service. No reply was received from Secret Service officials to the MTD questionnaire. As for the Bureau of Narcotics, Assistant Chief Counsel William M. Lenck first declared that "the use of polygraphs by government agencies is controlled by guidelines and procedures established by the Civil Service Commission and we would suggest that your inquiry be directed to that agency." To this Mr. Lenck added: "Information concerning the use of polygraphs in cases involving security or integrity matters is not subject to public disclosure, and hence, we are unable to furnish you this type of information." Following a telephone conversation with one of the research staff conducting this study, Mr. Lenck sent a follow-up letter in which he asserted: "A review of our files fails to reveal any specific instances of the use of polygraphs during the fiscal year 1964, 1965, 1966, 1967, and 1968."

Other Government agencies

Here is what the picture looks like in other agencies mentioned by the Moss Subcommittees. (The numbers in parantheses indicate the tests conducted in fiscal 1963 according to the Subcommittee report.) *Atomic Energy Commission* (1)—two tests in fiscal 1964, none since then; used in "personnel cases," according to William T. Riley, Director, Division of Security. *Commerce Department* (2)—the Department "does not use, and has not used, polygraphs in the conduct of its personnel operations," according to Henry Scharer, Office of Public Affairs. *General Services Administration* (10)—no reply to MTD questionnaire. *State Department* (17)—no reply to questionnaire.

Quite obviously, a complete picture of the use of "lie detectors" in the federal government is not easily come by. But one fact emerges clearly: Thanks to the disclosures of the Moss Subcommittee, there has been a tightening of procedures in the use of these devices, a stated recognition of the right of the individual not to submit to this form of inquiry, and a general lessening of the use of polygraphs in the federal service.

POLICE AND THE POLYGRAPH

There were two other agencies whose polygraph activities were noted by the Moss Subcommittee—the Federal Bureau of Investigation and the D.C. Metropolitan Police Department. The experiences of these two agencies—then and now—are recounted in this section, rather than in the governmental section, because of their direct relationship to polygraph involvement in the activities of law enforcement agencies.

Of the two, the Federal Bureau of Investigation provides probably the most interesting case in point. The Subcommittee report showed that in fiscal 1963, the FBI conducted no less than 2,314 "lie-detector" examinations, owned 48 polygraphs, and employed 46 polygraph examiners. The report also carried the sworn testimony of FBI Director J. Edgar Hoover, who declared:

"It should be pointed out that the polygraph, often referred to as a 'lie detector,' is not in fact such a device."

Like other government agencies, the FBI was contacted by the research staff assigned to this report by the Maritime Trades Department. Responded Mr. Hoover:

"In reply to your inquiries, the FBI has not used the polygraph for several years. I cannot, therefore, be of assistance to you."

On its face, this flat denial by the chief of the Federal Bureau of Investigation would indicate an abrupt cutoff immediately at the end of fiscal 1963—the period covered by the Subcommittee hearings. In any event, if the FBI no longer uses the polygraph, its practice would be in conformity with Director Hoover's opinion, expressed to the Subcommittee, on the failure of the polygraph to fulfill the function of "lie detector."

As to the District of Columbia Police Department, which in fiscal 1963 has been reported as having given 350 such tests, Inspector Eugene D. Gooding, director, Community Relations Division, shed no light on subsequent employment of the machines.

"At the present time," he wrote, "we have not compiled *for publication* any information regarding the questions outlined." (Emphasis added.)

This is all too common a response from police departments across the country—specific information is not available to the public. Yet despite the cloak of secrecy, certain facts are ascertainable:

Newspapers report instances in which police in Los Angeles, Calif., Alexandria, Va., and Philadelphia, Pa., have used polygraphs in criminal investigations in which charges have subsequently been filed against an individual.

In the appendix to this report are excerpts from a forthcoming book by a former official of the Textile Workers Union of America, AFL–CIO, Boyd Payton, indicating the use of the polygraph by the North Carolina State Bureau of Investigation.

Staff members working on this report were introduced to a police officer from a suburban Chicago police force who was being trained as a polygraph examiner by the John E. Reid organization.

Credentials of polygraphers reveal that the Buffalo, N.Y., Police Department maintains a staff of polygraph examiners, as do the Delaware State Police.

Speaking as a representative of the International Association of Chiefs of Police, Inc., Dr. Nelson A. Watson, in answer to a question as to where the polygraph is used, replied: "Probably most of the major cities." Dr. Watson qualified his statement, however, by adding that he had not seen any statistics covering police usage.

Small departments could not support them financially, he said, and "wouldn't have all that much business to support it as an investigative tool." He further noted that many departments did not make greater use of the machine in investigations because of the fact that "lie-detector" tests are *not admissible as evidence in the courts.*

Where polygraph testing is employed, Dr. Watson said, police would generally use the device on various types of thefts—particularly those classified as "inside jobs"—and on cases where there was a reasonable suspicion of a false complaint.

Dr. Watson conceded that he knew of individual departments' use of the "lie detector" in pre-employment screening of applicants for jobs on the police force. But, again without statistics, Dr. Watson said he felt that "this is being 'soft-pedaled.' "

SOME OBSERVATIONS

The polygraph has been introduced on the American scene by industry, government and law enforcement agencies with little, if any, thought to the legal niceties—and certainly with no thought to the adverse impact that their use has had on individual rights and human dignity. And the use of this device has broadened with the passage of time, with the seeming acquiescence of the American people—if silence can be constructed as acceptance.

The one exception has been in the federal government. And the reason for this lone exception lies in the activities of the Moss Subcommittee. Its public disclosures of the use—and abuse—of the "lie detector," and the very grave doubts which the Subcommittee expressed concerning the reliability of this device, led to some rethinking of the government's attitude on these machines.

Out of the Moss Subcommittee hearings came much needed reforms—in terms of a government directive which specifies the conditions under which polygraphs may be used, the rights of the individuals to be tested, and the qualifications for examiners. This is all to the good—but far from good enough. If, as the Subcommittee and J. Edgar Hoover both agreed, there is no such thing as a "lie detector," then it seems difficult to justify its use under any circumstances—even limited circumstances.

But that point aside, the Moss Subcommittee proved what could be done once the Congress had made the American public both aware and aroused. What is needed now is for a Committee of the Congress to perform the same service with respect to American industry and American law enforcement agencies. Only then will it be possible to assess fully the extent to which "lie detectors" have become a part of the American scene and the damage which they have caused private citizens. And only then will basic reform become a reality.

WHAT LABOR IS DOING

For years, organized labor has been in the forefront of the battle against the use of the "lie detector," with particular emphasis on its use as a tool in industrial relations. The action of the AFL-CIO Executive Council in 1965, in mobilizing labor's resources to fight against this form of invasion of privacy, is typical of these efforts.

Labor's struggle against the polygraph has proceeded on four main fronts:

Through the machinery of the National Labor Relations Board.

Through grievance and arbitration procedures.

Through collective bargaining of contract clauses prohibiting their use.

Through action on the legislative front.

NATIONAL LABOR RELATIONS BOARD

The National Labor Relations Board has been called upon to act in cases brought before it involving management's use of the polygraph in an effort to determine the union sympathies of employees or as a means of frustrating the formation of a union and/or collective bargaining.

* * * * *

COLLECTIVE BARGAINING

Neither the courts nor arbitrators can be depended upon, alone, to prevent workers from being subjected to the indignity of the "lie-detector" test.

As workers and unions well know, it takes time to process a case through grievance and arbitration procedures, and even longer to obtain relief through the courts. Meanwhile, the "myth of infallibility" may convict a man, may cost him his job, and may do him irreparable damage. Even if he later wins reinstatement by an arbitrator or a judge, the damage often remains—the man remains "guilty" in the eyes of many of his neighbors and fellow workers.

It is for this reason that the trade union movement has intensified its efforts at the bargaining table to bring an end to this kind of harassment of the workers whom they represent. Many unions now have contract clauses specifically prohibiting the use of polygraphs either for pre-employment testing or for questioning employees once they are on the payroll.

Local 21 of the Retail Clerks International Association negotiated a contract in 1964 with the E. J. Korvette Company. Included in it was this clause:

". . . The company shall not require, request or suggest that an employee or applicant for employment take a polygraph or any other form of 'lie-detector' test . . ."

All unions should give consideration to the inclusion of a similar clause in their collective bargaining agreements—whether or not they have experienced problems with the "lie detector." The fact that a company has never resorted to this form of interrogation before is no guarantee that it might not try it in the future—as unions are well aware on the basis of their experience with management in other areas.

LEGISLATIVE ACTION

In little more than a decade, the American trade union movement has been successful in winning passage of anti-polygraph legislation in a dozen states. And several municipalities have similar laws prohibiting or inhibiting the use of the "lie detector" in industry.

Massachusetts was the first state in the union to act, passing a law in 1959 that said an employer could not "require or subject" an employee to a "lie-detector" test. This law was amended in 1963, to add that an employer could not "cause a person directly or indirectly" to take a polygraph test.

Two more states acted in 1963. Oregon passed a law roughly similar to the one in Massachusetts. California enacted a law outlawing polygraph testing of all workers except those in governmental agencies, although sanctioning tests when workers "voluntarily" submit.

In 1964 there was action in two more state legislatures. Alaska enacted a law prohibiting testing of all employees except policemen or police applicants. Rhode Island's law was, like the one in Massachusetts, more sweeping.

In 1965, Hawaii prohibited the use of the "lie-detector" test by both private and public employers. And the State of Washington passed a law prohibiting the use of the polygraph except in law enforcement, by persons "who dispense narcotics or dangerous drugs," or by "persons in sensitive positions directly involving national security." (That same year, Akron, O., and Shively, Ky., passed their own anti-polygraph ordinances.)

Three more states acted in 1966—Delaware, which banned the use of the polygraph for the testing of employees or prospective employees in both the public and private sector; Maryland, which banned the device in private employment but not in public employment; and New Jersey, which outlawed the use of the "lie detector" by all employers.

Connecticut acted in 1967, prohibiting the use of the "lie detector" for all employees except uniformed policemen or applicants for police posts.

Latest to act was Pennsylvania, which in 1969 outlawed this form of testing except in the field of law enforcement or by persons who dispense or have access to narcotics or dangerous drugs.

In addition, three states—Illinois, Kentucky, and New Mexico—have laws governing the registration of polygraphers. Because of the serious questions which this raises (in terms of giving formal status to persons practicing in a field where reliability and legality have been the subject of considerable dissent), these registration laws bear brief examination.

Illinois—Under this law, a prospective polygrapher must be 21 years of age, a United States citizen, and a person of "honesty, truthfulness, integrity and moral fitness." He cannot have a police record, and he must have a college degree (although no course of study is specified—it could be anything from music to physical education.) He must also pass a "certification examination" and serve a six-month "internship" (although the law is silent on where or with whom, the "internship" is to be served.)

In addition, the Illinois law contains what is called a "grandfather clause," which provides that any person who was in the polygraph business on or before April 1, 1963, (the date the law was passed) could receive a license to practice "lie detection" without having to take the certification examination or meet the "standards" required for new entrants in the field.

Kentucky—The approach here is somewhat the same as in Illinois, except that it mentions no requirements as to the examiner's charter or education. While an applicant for a license is expected to have completed some formal training in an "approved institution," nothing is mentioned about what educational level he should have attained before entering training.

The "grandfather clause" exists in Kentucky, too. If a "lie detective" was practicing for five or more years before the law was passed (in 1962) he was allowed to continue in business and obtain his license without meeting any of the "standards" spelled out in the law.

New Mexico—Passed in 1963, this law differs in several respects from the other two. In New Mexico, an applicant must be 25 and must be of "good moral character," although the law contains no restrictions concerning an applicant's police record. New Mexico deals with the question of a police record only when talking about revocation of a license—and then only with referenec to convictions for moral turpitude, chronic drunkenness or drug addiction, "unprofessional conduct," insanity or incompetency. ("Unprofessional conduct" is defined as including" . . . conduct tending to deceive or defraud; obtaining fees by misrepresentation; charging unusual, unreasonable or exorbitant fees; fee 'splitting,' and spurious advertising . . ."

New Mexico's law requires the prospective applicant to have a high school diploma or the equivalent and to be able to pass an examination administered by the State Board of Polygraphers. Nothing is mentioned about training in the polygraph field.

THE STATE LAWS

Following are excerpts of the pertinent language of the various state laws which are now on the books relative to the use of "lie detectors" in employment:

Alaska

". . . No person either personally or through an agent or representative may request or suggest to a person in his employ or to a person who has an application for employment pending before him or require as a condition of employment that the employee or applicant submit to an examination in which a polygraph or other lie-detecting device is used.

"The provisions of . . . this section do not apply to the state or a political subdivision

of the state when dealing with policemen in its employ or with persons applying to be employed as policemen . . .

"A person who violates this section is guilty of a misdemeanor and; upon conviction, is punishable by a fine of not more than $1,000 or by imprisonment for not more than one year, or by both."

California

"No employer shall demand or require any applicant for employment or prospective employment or any employee to submit to or take a polygraph, lie-detector or similar test or examination as a condition of employment or continued employment. The prohibition of this section does not apply to the federal government or any agency thereof or the state government or any agency or local subdivision thereof, including, but not limited to, counties, cities, districts, authorities and agencies."

Connecticut

"No person, firm, corporation or association shall request or require any prospective employee or any employee to submit to, or take, a polygraph examination as a condition of obtaining employment or of continuing employment with such employer or dismiss or discipline in any manner an employee for failing, refusing or declining to submit to or take a polygraph examination. . . . No employment agency . . . and no agent for an employer shall require any person to submit to, or take, a polygraph examination for any purposes whatsoever.

"Any person, firm, corporation or association which violates any provision of this Act shall be fined not less than two hundred fifty dollars nor more than one thousand dollars for each violation.

"The provisions of this Act shall not apply to persons employed or to be employed by the state or any local government or any political subdivision thereof in any police department, but shall apply with respect to obtaining and maintaining employment of other persons by the state or any local government or political subdivision thereof."

Delaware

"No person or any agent or representative thereof, shall require, request, or suggest that any employee or prospective employee take, or shall cause, directly or indirectly, any employee or prospective employee to take, a polygraph, lie detector or similar test or examination as a condition of employment or continuation of employment. As used herein, 'person' includes any individual, corporation, partnership, firm, association, and the state or any agency or political subdivision thereof.

"Whoever violates the provisions of this section shall be guilty of a misdemeanor and shall be fined not more than $500 or imprisoned for not more than 90 days, or both . . ."

Hawaii

"It shall be unlawful for a private employer or his agent, or an agent of a public employer to require an employee to submit to a polygraph or lie-detector test as a condition of employment or continued employment.

"Any person who unlawfully requires an employee to submit to polygraph or lie-detector tests shall be fined not more than $1,000 or imprisoned not more than one year, or both."

Maryland

"No employer shall demand or require any applicant for employment or prospective employment or any employee to submit to or take a polygraph, lie-detector or similar test or examination as a condition of employment or continued employment. The prohibition of this section does not apply to the federal government or any agency thereof or the state government or any agency thereof including, but not limited to, counties, cities, districts, authorities, and agencies.

"Any employer who violates the provisions . . . shall be guilty of a misdemeanor and subject to a fine not to exceed $100."

Massachusetts

"No employer shall require or submit any employee to any lie-detector tests as a condition of employment or continued employment. Any person violating this section shall be punished by a fine of not more than two hundred dollars."

New Jersey

"Any person who as an employer shall influence, request or require an employee to take or submit to a lie-detector test as a condition of employment or continued employment, is a disorderly person."

(Under New Jersey law, a person adjudged a "disorderly person" can be punished by imprisonment in the county workhouse, penitentiary or jail for not more than one year or by a fine of not more than $1,000 or both.)

Oregon

"No person, or agent or representative of such person, shall require, as a condition for employment or continuation of employment, any person or employee to take a polygraph test or any form of a so-called lie-detector test."

"Violation of . . . this Act is punishable, upon conviction, by a fine of not more than $500 or by imprisonment in the county jail for not more than one year, or both."

Pennsylvania

". . . whoever requires as a condition for employment or continuation of employment, that a person or employee shall take a polygraph test or any form of a mechanical or electrical lie-detector test shall, upon conviction thereof, be sentenced to pay a fine not exceeding five hundred dollars ($500) or undergo imprisonment for a period not exceeding one (1) year or both. The provisions of this section shall not apply to persons in the field of public law enforcement or persons who dispense or have access to narcotics or dangerous drugs."

Rhode Island

"No employer or agent of any employer shall require or subject any employee to any lie-detector tests as a condition of employment or continued employment.

"Any employer who subjects any person employed by him, or any person applying for employment, to a lie-detector test, or causes, directly or indirectly, any such employee or applicant to take a lie-detector test, shall be punished by a fine of not more than two hundred dollars. This section shall not apply to lie-detector tests administered by law enforcement agencies in the performance of their official duties."

Washington

"It shall be unlawful for any person, firm, corporation or the state of Washington, its political subdivisions or municipal corporations to require any employee or prospective employee to take or be subjected to any lie detector or similar tests as a condition of employment or continued employment . . . this section shall not apply to (1) persons in the field of public law enforcement, or (2) persons who dispense narcotics or dangerous drugs, or (3) persons in sensitive positions directly involving national security . . .

"Any person violating the provisions . . . of this Act shall be guilty of a gross misdemeanor."

THE LIE DETECTOR AND THE COURTS

For nearly half a century, the America legal system has painstakingly built up a basic record on the question of the use of "lie detectors"—a record centering on the admissibility of polygraph test "results" as evidence, the question of whether a person could be compelled to submit to such testing, and whether or not a person could "volunteer" to undergo such an inquisition.

To date, all of the key rulings—in state and federal courts alike—have been confined to criminal cases. The courts have yet to come to grips with the Constitutional question of the right of privacy. This crucial test is still to come.

ADMISSIBILITY OF THE POLYGRAPH

The first reported case concerning the admissibility of "lie-detector" tests was that of *Frye* v. *United States* in 1923. The U.S. Court of Appeals for the District of Columbia refused to allow Dr. William Moulton Marston (one of the inventors of the modern-day polygraph) to testify on the results of a systolic blood-pressure test he had conducted on the defendant. The court said:

"Just when a scientific principle or discovery crosses the line between the experimental and the demonstrable stages is difficult to define. Somewhere in this twilight zone the evidential force of the principle must be recognized, and while courts will go a long way in admitting expert testimony deduced from a well-recognized scientific principle or discovery, the thing from which the deduction is made must be sufficiently established to have gained general acceptance in the particular field in which it belongs.

"We think the systolic blood-pressure detection test has not yet gained such standing and scientific recognition among physiological and psychological authorities as would justify the courts in admitting expert testimony deduced from the discovery and experiments made thus far . . ."

It is interesting to note that the court thus repudiated both the inventor and his technique in their first legal test case.

Although thousands of "lie-detector" tests were given in the years following the *Frye* decision, the Wisconsin Supreme Court relied on that opinion in a case before it 10 years later. In the 1933 case of *State* v. *Bohner*, the defendant's attorney asked the court to admit the results of a polygraph test given the defendant as "evidence" of his innocence. The court refused, and the Wisconsin Supreme Court upheld that decision, declaring:

"While it may have some utility at present, and may ultimately be of great value in the administration of justice, it must not be overlooked that a too-hasty acceptance of it during this stage of its development may bring complications and abuses that will overbalance whatever utility it may be assumed to have . . ."

In 1938, two New York courts reached opposite conclusions on the admissibility of the "results" of galvanic skin response tests. In *People* v. *Kenny*, the defense asked that the testimony of an "expert" who has used a psychogalvanometer to administer a test on the accused be allowed. The court admitted the testimony. Since the decision was not appealed, and since it occurred in a lower court, no great significance has been attached to this action.

Later that same year, however, in the case of *People* v. *Forte*, New York's highest court, the Court of Appeals, ruled against admitting the results of a test given the defendant by the same examiner who had been involved in the *Kenny* case. The Court of Appeals said that the trial court record was:

". . . devoid of evidence tending to show a general scientific recognition that the pathometer possesses efficacy . . ."

In the 1942 case of *People* v. *Becker*, the Michigan Supreme Court upheld a lower court's decision not to admit polygraph test results which the defendant requested be allowed. Although the defendant contended

that the test results would show he killed in self-defense, the court said there was no testimony in the case to show that there was any existence at the time of ". . . a general scientific recognition of such tests. . . ."

In 1945, the Missouri Supreme Court upheld a lower court's decision in *State* v. *Cole* to refuse to admit polygraph tests in the trial. The defendant involved in a murder trial had asked for a court order requiring that he and all witnesses in the case be given "lie-detector" tests. The court refused, stating:

". . . the day has not come when all the witnesses in a case can be subjected to such inquisitorial and deceptive tests . . . without their consent . . . Furthermore, such dramatics before the jury would distract them and impede the trial . . . because it is necessary for the inquisitor to ask both harmless, irrelevant and 'hot' questions in order to bring out the contrast in the witness' emotional responses . . . it has no place in the courtroom . . ."

In 1947, in the case of *State v. Lowry*, the Supreme Court of Kansas reversed a lower court ruling which had allowed the prosecution to introduce the results of a polygraph test administered on both parties during a trial involving felonious assault. The court said that the technique had ". . . not yet gained sufficient scientific recognition to warrant the acceptance of the results as competent legal evidence . . ."

This case is notable because both parties had agreed to take a polygraph test during the trial, and later on one party objected to the admission of the test results. Although in this instance the State Supreme Court had overruled the lower court and banned the admission of the results, the case still served as a precedent for others in other jurisdictions where attempts to have test results admitted on stipulation were successful.

In the 1949 case of *Boeche v. State* in Nebraska, the defendant, who was on trial on a charge of passing bad checks, attempted to have polygraph tests admitted as evidence. The court rejected this plea on two counts.

First, it said, the technique had not achieved a degree of scientific acceptance necessary to qualify for admission as evidence.

Second, the court said, it was impossible to cross-examine the "lie-detector" machine, thus impairing one of the vital processes in law.

In the case of *Kaminski v. State* (Florida, 1952), the court was more concerned with the issue of due process than with the scientific unreliability of the polygraph. In its decision, the court said:

"The successful attempt by the prosecution by the means employed to implant in the minds of the jury the impression that because the witness had voluntarily submitted to a lie-detector test prior to trial he must perforce be testifying truthfully in the course of the trial, resulted, in effect, in the substitution of a mechanical device, without fair opportunity for cross-examination, for the time-tested, time-tried, and time-honored discretion of the judgment of a jury as to matters of credibility . . ."

Subsequent major criminal decisions in California (*People v. Wohnick*, 1950), North Dakota (*State v. Pusch*, 1950), Texas (*Peterson v. State*, 1952) and Massachusetts (*Commonwealth v. Fatalo*, 1963), reinforced previous decisions banning the admissibility of "lie-detecor" tests. The decisions in all of these cases were based on the fact that neither the polygraph machine nor the "test" had proven scientifically viable. The courts said basically that the technique, therefore, did not meet the minimum standards required of evidence to be presented in the American legal system.

The Michigan Supreme Court decided in the case of *Stone v. Earp* in 1951 that a polygraph was no more admissible as evidence in a civil case than in a criminal case, declaring there was ". . . no reason why a different rule should be followed in civil than in criminal cases . . ."

COMPULSION AND VOLUNTARISM

The courts have also dealt with the twin issues of:

Whether an individual could be required to take a "lie-detector" test.

Whether an individual could volunteer to take a "lie-detector" test.

In both cases, the rulings were handed down in the context of whether these actions and/or the polygraph test "results" could be admitted as evidence by the court.

The 1946 Illinois case of *People v. Sims* dealt with whether an individual could be required to take a "lie-detector" test. The court said:

"No court so far as we are advised has ever held that a lie detector may be used on the accused without his consent . . ."

Illinois law has further supported this decision by forbidding trial judges in civil cases to require litigants to submit to polygraph examinations; in criminal cases they are prohibited from even suggesting that such tests be administered. (However, in Illinois, if a defendant volunteers to take a "lie-detector" test, the evidence is admissible in court.)

Several early cases arose dealing with whether the results of a polygraph test which the individual had volunteered to take could be admitted as evidence by the court. The question of whether an individual's refusal or agreement to take such a test could, of itself, be admitted as evidence, also came under court scrutiny.

In 1952, in *State v. Kolander* (Minnesota), a defendant accused of arson refused to take a polygraph test. The prosecution interpreted this refusal as evidence of guilt and had it presented as such to the court. The case was appealed to the Minnesota Supreme Court, which reversed the lower court's conviction. The Supreme Court held that using the refusal to take the test as evidence was more prejudicial than the actual test itself might have been. The court said that if the defendant had agreed to take the test, the prosecution would have had to prove the reliability of the polygraph. However, in refusing to take the test, the defendant gave tacit recognition to the validity of the test in the eyes of the jury.

Following this decision was the 1959 case of *Mills v. Colorado*. This corroborated the Minnesota decision and said that the fact of refusing to take a "lie-detector" test was too prejudicial to be admitted as evidence. Court rulings were based on similar reasonings in the cases of *Kansas v. Emery* and *Hawaii v. Chang* in 1962.

In the 1956 case of *Commonwealth v. Saunders* (Pennsylvania), the defendant, accused of murder, volunteered to take a polygraph test to show a "consciousness of innocence." This raised a different aspect in the polygraph issue, for the defendant sought to have his attitude and his willingness to submit to the test admitted as evidence. The court refused, saying:

". . . defendant's offer was merely a self-serving act or declaration which obviously could be made without any possible risk, since if the offer were accepted and the test given, the result, whether favorable or unfavorable to the accused, could not be given in evidence . . ."

Other cases which followed this same general opinion were *State v. Anderson* (Minnesota, 1962) and *State of New Jersey v. La Rocca* (1963).

Clearly, the bulk of legal opinion has shown that even the willingness or unwillingness to take polygraph tests cannot be submitted as evidence in court.

However, the inadmissibility of the test itself as evidence in turn raised the question of the admissibility of a confession obtained during or because of a "lie-detector" test.

Commonwealth v. Hipple, decided by the Pennsylvania Supreme Court in 1939 was one of the earliest decisions ruling that a confession obtained by using a polygraph could be admitted as evidence. Polygraph confessions, however, must meet the same tests which are applied to confessions gotten by other means: Confessions from "lie-detector" tests must be voluntary, must not be the result of force or coercion, and must not have been obtained by a deliberate attempt to deceive the defendant.

Admissibility of confessions obtained by polygraph was established in *State v. Lowry* in Kansas in 1947. As long as the confession was obtained by a competent interrogator, the court saw no reason to disqualify the confession solely on the ground that the polygraph examiner and the interrogator were the same person.

In *Bruner v. People*, a Colorado case decided in 1945, the defendant was tried for murder and given a "lie-detector" test. Following the test, he confessed to the crime in question. Counsel for the defense contended, however, that the confession was involuntary and therefore not admissible because the defendant was treated inhumanely during his test. The court agreed, and the confession was dismissed as unacceptable evidence. The court said that the defendant was:

". . . justified in assuming (the examiner's) treatment would continue until such time as defendant was physically and mentally exhausted and in this condition make a confession of guilt . . ."

In this case it was necessary to establish the fact of the test in order to dismiss the confession.

A precedent has been established whereby confessions may be submitted in evidence as long as the fact of the test itself is not introduced in evidence. The case involved was *Henderson* v. *State of Oklahoma* (1951) in the court also refused to accept the test as evidence.

The United States Supreme Court in *Jackson* v. *Deno* in 1964 ruled that if an involuntary confession (whether true or false) results in a conviction, the defendant in a criminal case has been denied his right to due process.

(Lee M. Burkey, writing in the February 1967 *Labor Law Journal*, suggested that "an employee who asserts that he has been browbeaten into taking a 'lie-detector' test might well rely on this decision as a basis for recovering his job, lost pay, and even damages against his employer . . .")

1964 was also the year that the Supreme Court, ruling in the case of *Escobedo* v. *Illinois*, reversed the conviction of a man who had not had an attorney present at his interrogation.

(In the same article in *Labor Law Journal*, Burkey has suggested that this ruling from the nation's highest tribunal "could also be applied to a situation where an employee submits to a polygraph test without his attorney being present, or to confessions obtained under the influence of a test when the accused was not represented by an attorney . . .")

Perhaps the most significant case, to indicate the tenor of future polygraph decisions came before the U.S. Supreme Court in 1966.

Schmerber v. California concerned the appeal of a man who contended that the taking of a sample of his blood by the police to determine its alcohol content constituted an invasion of his privacy. The man cited

the Fifth Amendment, which prohibits self-incrimination, in his appeal to the court.

The court ruled against the defendant—but in so doing it delivered some highly interesting views concerning the relationship of the Fifth Amendment to the issue of "lie-detector" tests.

In the majority opinion, the Supreme Court said that the Fifth Amendment's Constitutional privilege against self-incrimination is designed to protect persons accused of a crime from being forced

". . . to provide the state with evidence of a testimonial or communicative nature . . . whatever form (the communications) might take . . ."

The majority said that the blood sample did not meet the test of the kind of "testimonial statements" that the Fifth Amendment had in mind. But in words that raised the whole question of "lie detectors" and put their "results" into sharp legal focus, the Supreme Court said:

"To compel a person to submit to testing in which an effort will be made to determine his guilt or innocence on the basis of physiological responses, whether willed or not, is to evoke the spirit and history of the Fifth Amendment . . ."

This opinion would appear to offer encouragement to those who seek to bring a "lie-detector" case before the Supreme Court to test its constitutionality.

RECOMMENDATIONS

This report—the first in a series on the many faces which invasion of privacy wears in America—has centered on the use of the "lie detector," particularly by American business and industry.

This study emphasizes that:

The use of the "lie detector" runs counter to Constitutional guarantees against illegal search and seizure, and is contrary to the Constitution's safeguard against self-incrimination.

The use of the "lie detector" flouts America's historic concept that the accused is innocent until proven guilty—in point of fact, the "lie detector" *presumes guilt* unless and until the subject can "clear" himself.

The claims made for the "lie detector" by its supporters are fraudulent and are easily refuted by the facts. The body of evidence available makes it abundantly clear that *no* machine and no individual can measure truth or deception, innocence or guilt.

This report also makes clear that the trade union movement has consistently been in the vanguard of those battling against the use of this mechanical device in employer-employee relations. Organized labor's goal has been to remove from the American scene this monstrous example of the encroachment that has been permitted to take place in the field of human rights and individual freedoms. Organized labor's battleground has been on the collective bargaining front, on the legislative front, and on the grievance and arbitration front.

Yet the evidence is equally clear that, to a large extent, the "lie-detector" menace is still with us. It is, therefore, incumbent on the trade union movement to intensify its activities in order to accelerate the tempo at which this device is removed from our midst.

In this spirit, this report recommends:

1. *An all-out campaign in the 1970's for enactment of state laws prohibiting the use of these devices.*

Organized labor has proven its ability to win passage of such laws in state legislatures. The 12 state statutes now on the books—seven of them enacted in the last five years—attest to that fact. But there are 38 states and the District of Columbia which either have no anti-polygraph laws or which have statutes that either permit or tacitly condone the use of these devices.

Labor must press forward with its campaign at the state level to put anti-polygraph laws on the books, to remove permissive laws which may exist, and to repel efforts by the polygraph industry which seeks licensing laws which would confer an aura of "respectability" to the practitioners in this field.

2. *Enactment of federal legislation outlawing any and all uses of polygraph machines or similar "lie-detecting" devices.*

Federal legislation would preempt this field, achieving through a single, uniform law the same goal being sought through a multiplicity of state laws which often vary in scope and direction. Beyond that, federal legislation would offer safeguards to those untouched by state law—particularly the public employee. It should be emphasized that our recommendation of a federal statute calls for the all-inclusive outlawing of these devices. We are unimpressed with the demands of those who would seek to continue the use of polygraphs under certain stated instances—the most visceral of these being in the cause of "national security." This is a loophole through which the unscrupulous investigator can squirm to enlarge the area of his activity. But in any event, since the "lie-detector" is so clearly violative of Constitutional rights . . . and since it is so clearly an unreliable device for the measuring of truth or deception . . . it has no place in America, not even in government. It simply does not make sense to say that the polygraph is unconstitutional and unreliable, but that "national security" justifies its use, for it is just as unconstitutional and unreliable in those circumstances as in any others. Thomas Jefferson put it well when he declared: "It behooves every man who values liberty . . . for himself, to resist invasion of it in the case of others."

3. *Negotiation in collective bargaining agreements of anti-polygraph clauses.*

For generations, trade unions have used the collectively bargained contract to win for their members basic rights and protections—safeguards which our courts and lawmakers have later come to recognize as part of our American heritage. Many times, collectively bargained rights for workers represented by unions have paved the way for legislative rights for all Americans. In this spirit, trade union negotiating committees should emphasize the need for including in their contracts a clause adequately protecting workers from management insistence on the use of the "lie detector."

4. *Vigorous prosecution, through the grievance and arbitration machinery, of any cases arising out of the use of polygraphs or out of an employee's right to refuse to take a "lie-detector" test.*

Even in the absence of a contract clause banning the use of "lie detectors," unions have been successful in protecting members from disciplinary action stemming from this practice. Courts, arbitrators and unemployment compensation boards have used strong language in denunciation of polygraphs and in defense of workers who exercise their rights not to be compelled to submit to the indignity of their use. This should encourage unions to mount a continuing defense of their members through grievance and arbitration procedures. If every such case is prosecuted to the maximum extent, management might eventually—if reluctantly—abandon the practice on the ground that it cannot win.

Earlier in this report, the AFL–CIO Maritime Trades Department quoted from a report by the House Government Operations Committee, headed by Representative John E. Moss (D-California). We repeat it now in conclusion, because it sums up—as succinctly as anyone could—the case against the polygraph.

The Committee declared:

"There is no 'lie detector,' neither machine nor human. People have been deceived by a myth that a metal box in the hands of an investigator can detect truth or falsehood."

We agree.

[From the New York Times, Feb. 15, 1970]

UNIONS SCORE USE OF LIE DETECTOR—REPORT BY MARITIME TRADES SEES THREAT TO PRIVACY

BAL HARBOUR, Fla., Feb. 14—Federal legislation to outlaw the use of polygraph machines and similar lie-detection devices, even in national security cases, was demanded today by a group of 41 unions affiliated with the American Federation of Labor and Congress of Industrial Organizations.

The Maritime Trades Department of the merged federation, which represents unions with 7.5 million members, called the use of lie detectors unconstitutional and said they were "clearly an unreliable device for the measuring of truth or deception."

The call for a total ban on lie detectors was contained in a 174-page study of a polygraph and its uses by industry, government and law enforcement agencies. The analysis was prepared by a special study committee set up by the Maritime Trades Department to look into all phases of the so-called invasion of privacy in the United States.

Pending the passage of Federal legislation, the report called for state laws to ban the use of lie detectors. Edward J. Carlough, chairman of the study committee, noted that 12 states had such prohibitive statutes. "But there are 38 states that still do not have this legislation, and that is a challenge," he said.

AN ADDITIONAL DEMAND

In addition to a prohibition against lie detectors, the report called for the inclusion in all collective bargaining ageements of a clause prohibiting management from compelling, or even requesting, workers to submit to such tests either during pre-employment screening or after they were hired.

The report also urged the use of grievance and arbitration machinery to protect workers against being compelled to submit to lie detector tests.

"The problems posed by the use of lie detectors are but one aspect of the invasion of privacy in America, the study declared. "Clearly, this is cause for alarm."

The study of lie detectors was the first in a series that the Maritime Trades Department is planning to conduct in the area of invasions of privacy. Future plans of the study committee call for analyses of electronic surveillance and the indiscriminate gathering and dissemination of personal information by credit bureaus.

EXHIBIT 3

TWENTIETH CENTURY WITCHCRAFT—THE LIE DETECTOR

(Address by U.S. Senator SAM J. ERVIN, JR. before the Greensboro Bar Association, Greensboro, N.C., on Nov. 16, 1967)

I want to discuss with you tonight the constitutionality of the Federal Government's use of the polygraph on American citizens.

Throughout human history, from the dawn of civilization, men have sought to distinguish the real from the unreal, fact from fiction, truth from lies. As Cicero wrote "Our minds possess by nature an insatiable desire to know the truth."

It is to this end that men and societies have applied vast resources of intellect and strength to developing institutions and devices for divining the truth.

As lawyers, we are well aware of the ancient function of the jury to find the facts, to distinguish truth from untruth. And we know

the dangers to a client's liberty of false evidence. We have seen the daily invention of new ingenious scientific and laboratory methods of judicial proof. So we are familiar with the laws of probability.

As citizens and as members of a profession which has a duty and obligation to pursue the truth and to facilitate other men's search for it, we have a special interest in some of the ways Federal officials seek truth.

The poet Keats said:

"Beauty is truth, truth beauty,
That is all—
Ye know on earth, and all ye need to know."

But man's search for truth is not always beautiful. In some agencies of the Federal Government, and elsewhere, man's desire to know all the truth from employees and applicants can be downright ugly.

I want to read you some typical complaints from law-abiding Americans who have encountered this device.

RECEIVED FROM AN APPLICANT AT THE NATIONAL SECURITY AGENCY

"When I graduated from college in 1965, I applied at National Security Agency. I went to 2 days of testing, which apparently I passed because the interviewer seemed pleased and he told me that they could always find a place for someone with my type of degree.

"About one month later, I reported for a polygraph test at an office on Wisconsin Avenue in the District or just over the District line in Maryland. I talked with the polygraph operator, a young man around 25 years of age. He explained how the machine worked, etc. He ran through some of the questions before he attached the wires to me. Some of the questions I can remember are—

" 'When was the first time you had sexual relations with a woman?

" 'How many times have you had sexual intercourse?

" 'Have you ever engaged in homosexual activities?

" 'Have you ever engaged in sexual activities with an animal?

" 'When was the first time you had intercourse with your wife?

" 'Did you have intercourse with her before you were married? How many times?'

"He also asked questions about my parents, Communist activities, etc. I remember that I thought this thing was pretty outrageous, but the operator assured me that he asked everybody the same questions and he has heard all the answers before, it just didn't mean a thing to him. I wondered how he could ever get away with asking a girl those kind of questions.

"When I was finished, I felt as though I had been in a 15 round championship boxing match. I felt exhausted. I made up my mind then and there that I wouldn't take the job even if they wanted me to take it. Also, I concluded that I would never again apply for a job with the Government, especially where they make you take one of these tests."

RECEIVED FROM A FOREIGN SERVICE OFFICER

"I am now a Foreign Service Officer with the State Department and have been most favorably impressed with the Department's security measures.

"However, some years ago I was considered for employment by the CIA and in this connection had to take a polygraph test. I have never experienced a more humiliating situation, nor one which so totally violated both the legal and moral rights of the individual. In particular, I objected to the manner in which the person administering the test posed questions, drew subjective inferences and put my own moral beliefs up for justification. Suffice it to say that after a short time I was not a 'cooperative' subject, and the administrator said he couldn't make any sense from the polygraph and called in his superior, the 'deputy chief.'

"The deputy chief began in patronizing, reassuring tones to convince me that all he wanted was that I tell the truth. I then made a statement to the effect that I had gone to a Quaker school in Philadelphia, that I had been brought up at home and in school with certain moral beliefs and principles, that I had come to Washington from my University at the invitation of the CIA to apply for a position, not to have my statements of a personal and serious nature questioned not only as to their truth but by implication as to their correctness, and that I strongly objected to the way this test was being administered.

"The deputy chief gave me a wise smile and leaning forward said, 'Would you prefer that we used the thumb screws?'(!) I was shocked at this type of reasoning, and responded that I hardly thought it was a question of either polygraph or the thumb screws.

"This incident almost ended the deep desire I had for service in the American government, but fortunately I turned to the Foreign Service. But if it happened to me it must have happened and be happening to hundreds of other applicants for various Federal positions."

RECEIVED FROM THE WIFE OF AN APPLICANT AT GENERAL SERVICES ADMINISTRATION

Her husband applied to the General Services Administration for a position as Operating Engineer. General Services Administration advised him that there was such a position open in the Public Building Services of the National Security Agency at Fort Meade, Maryland. During an interview at the National Security Agency he was advised that the position required security clearance and was called upon to furnish normal security type information about himself. He provided all papers and information required.

Her husband was then directed to report to the National Security Agency for a polygraph test.

Many questions were asked of him before the polygraph was applied. The questions were of such a nature that he became angry, incised and emotionally upset. He was in this state when the polygraph was actually applied.

None of the questions asked were concerned with his loyalty to the United States, his religious beliefs or political affiliation. A number of questions asked pertained to his sex habits. Mr. ——— told his wife following the test that he felt too humiliated and so degraded by the questions and the manner in which they were placed by the operator that he didn't care whether or not he secured the position. He told his wife that if truth in answering the questions was the criteria he was fully confident he did pass the test. The polygraph operator told him at the time of testing that he, the operator, would determine the outcome of the test.

In an attempt to be 100% sure that an applicant or employee is not lying, officials of some agencies strap him to a lie-detector machine—a polygraph. They hook up wires and tubes to him which are supposed to register his respiration, blood pressure and pulse rate. Electrodes are attached to his hand to measure the "galvanic skin response"—the flow of electric current across his skin as sweating increases. When the subject is asked a series of questions, his physiological responses are recorded on a moving sheet of graph paper by three pens. This explains the name of this instrument, since "polygraph" was the Greek word for "many writings."

USE OF POLYGRAPHS INCREASING

This is no minor problem, for the use of the polygraph is increasing. From an investigative tool in law enforcement work, its use has been extended for other purposes into private and public employment. Although it was developed in 1921, only in the last 15 years have employers come to rely on the polygraph to test the honesty of employees already on the payroll. When labor unions began complaining that a man's failure to pass a polygraph was not a just cause for dismissal, many employers began using polygraphs to screen applicants instead, on the ground that these people had no way of challenging the instrument or the findings.

According to a recent estimate, approximately 3,000 polygraph operators are giving between two hundred thousand (200,000) and three hundred thousand (300,000) tests yearly in the United States.

In the Federal Government alone, a House Subcommittee found that 19 agencies gave 19,000 lie-detector tests in 1963. These figures did not include around 9,000 tests administered by the Central Intelligence Agency and the National Security Agency.

Proponents of polygraphs justify their use because of some findings and assumptions that:

Lying leads to conflict;

Conflict causes fear and anxiety;

This emotional and mental state causes physical changes that can be accurately recorded and measured by the polygraph; and

The operator by studying these reactions, can tell whether the subject is being deceptive or truthful.

The truth of the matter is, as the House Government Operations Committee recently reported:

"There is no 'lie detector,' neither machine nor human. People have been deceived by a myth that a metal box can detect truth or falsehood."

NORTH CAROLINA RULING

The Supreme Court of North Carolina in *State* v. *Foye*, 254 N.C. 704 (1961) listed a number of reasons for failure of the courts in this country to accept lie-detector evidence as a reliable and accurate means of ascertaining truth or deception. It found these overwhelming obstacles to acceptance of the polygraph, the court said, "notwithstanding its recognized utility in the field of discovery and investigation for uncovering clues and obtaining confessions."

In an article in the American Bar Association Journal several years ago, Professors Inbau and Reid defended the use of the polygraph. They frankly admitted, however, that only about 20 per cent of the individuals who hold themselves out as examiners possess the training and skill required for competency in this field.

The attempt to transfer this investigative aid of law enforcement to the field of job suitability screening raises serious due process questions.

In standard criminal investigation, the polygraph examiner sets up a control question, in which he measures the subject's "guilt" response to a pecadillo, usually from childhood. This establishes a level of susceptibility against which can be measured the subject's response to the question at issue, which is the commission of a specific crime. In job suitability screening, there is no question at issue. All the questions are control questions and, thus, the examiner is measuring general sensitivity rather than specific guilt.

This is one reason the polygraph is an inappropriate tool for general suitability appraisal. Job applicants who fail the polygraph test may not be more "guilty" than those who pass, but only more sensitive. "Nervous" responses are more likely to be given by sensitive, introspective, vigorously honest persons. There is no correlation between these personality traits and the probability that the applicant might be corruptible. Some unreliable applicants might also give a "nervous" response, others not.

The whole process smacks of twentieth

century witchcraft. Does the flesh of the applicant burn when a hot iron is applied to it? When tightly bound and thrown into a pond, does the applicant sink or float? When strapped in a chair with electrodes and other gadgets attached, does the rate of respiration and blood pressure of the applicant rise? Does the salt of his pores induce increased electrical conductivity? Are we reduced to alchemy as a technique of screening applicants for highly sensitive positions in the Federal bureaucracy?

The burden of proof should be on those who assert the efficacy of polygraph in predicting the behavior of prospective government employees.

There have been practically no efforts to compile this proof. Congressional hearings and reports as well as the professional literature on the subject show that there are neither statistics nor facts to prove the value of the polygraph in personnel work.

Nevertheless, even more sophisticated devices are being planned. For instance, we recently discovered that under government research contract, primarily through the Defense Department funds, private companies have developed a lie detector in the form of an innocent looking office chair—"a wiggle seat." This, of course, is to get around all of those opponents who say an applicant's body and mind react when all those electrodes are attached to him.

An article in the Science News Letter describe this device: When an individual is seated in the chair, the forces exerted by the pumping action of his heart are sensed, changed from mechanical to electrical energy, then broadcast to remote recording instruments. An individual weighing less than 140 pounds will not generate a satisfactory signal. Since the chair so closely resembles an ordinary chair, the heart data can be obtained without the conscious knowledge of the subject."

A commercial brochure on the chair proclaims: "Nothing intrudes on the serenity of the setting. The patient does not see, much less 'wear' an electrode—straps and wires are prominent only by their absence. He or she remains fully clothed throughout the brief examination. . . . Mere hand contact with the arm electrodes is sufficient to obtain a good record. . . . A microphone in the dorsal position senses vibro- and phono-cardiographic information."

While the medical uses of such instruments can be of great value, their potential for denial of basic rights to unsuspecting applicants and employees cannot be overestimated.

Legislatures in six states and several city councils have already outlawed lie detectors in the employment relations; in some instances, unions have forced their elimination through collective bargaining.

FBI Director Hoover, fortunately for our security, does not use them for personnel work.

The Warren Commission report stated:

". . . In evaluating the polygraph, due consideration must be given to the fact that a physiological response may be caused by factors other than deception, such as fear, anxiety, neurosis, dislike and other emotions. There are no valid statistics as to the reliability of the polygraph . . ."

Why then, do administrators have such blind faith in these devices? In my opinion, it is directly related to the role of science and technology in our society—to the cult of "the expert." There is an increasing belief that anything scientific must be more reliable and rational than the judgment of men. Unfortunately, this is true not only of officials who favor the lie-detector machine; it is also true of the average person who is subjected to it. Officials have admitted that its greatest use is in scaring the individual into admitting his transgressions.

There is a growing belief that the machine can bridge that credibility gap which must exist wherever falible men choose between truth and untruth.

But I submit that this gap is a risk which must be taken in a free society. We cannot afford to dismiss the human element in decision-making where basic liberties are at stake.

There are workable alternatives to lie detectors. At the disposal of the Federal Government is a great investigative apparatus for checking references, background and qualification of applicants. Vast sums are spent training personnel specialists how to evaluate an individual's understanding of his role in an organization or agency.

Which brings me to the second point I want to make about the polygraphs.

Even if they could be proved 100% reliable and valid, there is no necessity for these infringements of freedom and invasions of privacy; but even if there were a necessity for them, I believe every citizen should answer with William Pitt:

"Necessity is the plea for every infringement of human liberty. It is the argument of tyrants; it is the creed of slaves."

Why should an applicant or employee have to describe his religious beliefs and practices? As long as his record shows that his conduct is socially and legally acceptable, why should he have to tell a prospective Federal employer about his sexual attitudes and conduct; or whether he loved his mother; or whether he fights with his wife?

Is there not a part of his personality, of his private life, which can and should be immune from governmental trespass?

By questionable means, we are perhaps seeking truthful answers to questions which should not be asked. I think we should ask ourselves whether, by sanctioning these privacy invasions, we are not trifling with the great constitutional truths which buttress our society. I believe we are.

Regrettably, it would appear that we have often come far from the nature of the truths which we once thought important; but in the case of the polygraph, we have come not very far at all from the ancient methods of seeking the truth. It is not too far from the ancient trial of ordeal by fire or water to the concept of the "wiggle seat." Nor is there much difference between the polygraph and the old deception test used by the Indians. They thought that fear inhibited the secretion of saliva. To test his credibility, an accused was given rice to chew. If he could spit it out he was considered innocent; but if it stuck to his gums he was judged guilty.

What do polygraph techniques do to the concepts underlying the Fourth and Fifth Amendments? To the principles that there shall be no search and seizure without warrant, and that no man should be compelled to incriminate himself? Is there anything more destructive to our system of government than attempting to seize a man's innermost thoughts; compelling him to confess his beliefs, his religious practices, his every sin; requiring him to bare his soul to a machine in order to hold a job?

Hardened criminals are safeguarded in this area of the law, yet an applicant for Federal employment is not.

In the employment process, however, it is to the First Amendment that this twentieth century witchcraft does the most violence. That Amendment guarantees a citizen freedom from interference with his freedom of expression in his thoughts and beliefs. And it includes not only his right to express them but his right to keep silent about them. This is a crucial issue in a free society.

To condition a citizen's employment and his future job prospects on his submission to the pumping of his mind, his thoughts, and beliefs about personal matters unrelated to his duties, is to exercise a form of tyranny and control over his mind which is alien to a society of free men. It is to force conformity of his thought, speech and action to whatever subjective standards for conduct and thought might be held by a polygraph operator, or his company, or an agency official. It is to weaken the fabric of our entire society.

I submit that the Constitution can and does protect us from such incursions on our liberties.

EMPLOYMENT AS A PRIVILEGE

To say that employment is a privilege is to avoid the issue. For, as the Supreme Court has said, it does not matter whether or not there is a constitutional right to employment. The means and procedures employed by government should not be arbitrary.

CONSENT

Nor does it help to reply that a person "consents" to such an invasion of his liberty. Where the full force of government is behind the request, where he knows that great computer and data systems of government will retain forever his refusal to reply, or his answers to the queries, there is no free consent.

CONFIDENTIALITY OF RECORDS

Proponents argue that the records are confidential. It is no secret that his employment records, with all of the medical and security data, follow a man throughout his career. They are officially transmitted through the subterranean passages of our complex bureaucracy.

It was to prevent the practice of such tyrannies on Federal employees that I introduced my bill to protect the privacy and constitutional rights of employees of the Executive Branch.

This bill is premised on the belief that just because he goes to work for government, the individual does not surrender his basic rights and liberties as a citizen. Nor does he surrender his right to a proper respect by his government for his privacy and other rights. The bill is designed to prohibit unwarranted governmental invasions of employee privacy and is sponsored by 55 members of the Senate. I am happy to report that it was approved by the Senate on September 13 by a vote of 79 to 4 in 1967.

Section (f) of S. 1035 makes it unlawful for any officer of any Executive department or agency to require or request, or attempt to require or request, any civilian employee serving in the department or agency, or any person applying for employment in the Executive branch of the United States Government "to take any polygraph test designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters."

* * * * *

It is time we put a rein on the Federal Government's use of twentieth century witchcraft to find the truth. It is time the Federal Government was told what truths it should be seeking.

EXHIBIT 4

S. 2156

A bill to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of the polygraph for certain purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

SEC. 1. It shall be unlawful for any officer or employee of any executive department or agency or any individual acting under the

authority of such officer and employee to do the following:

(a) to require or request, or to attempt to require or request, any officer or employee of the United States, or any individual applying for employment as an officer or employee of the United States, to take any polygraph test in connection with his services or duties as such officer or employee, or in connection with such individual's application for employment;

(b) to deny employment to any individual, or to discharge, discipline, or deny promotion to any officer or employee of the United States, or to threaten to commit any such act by reason of his refusal or failure to submit to such requirement or request.

SEC. 2. It shall be unlawful for any person engaged in any business or other activity in or affecting interstate commerce, or any individual acting under the authority of such person to do the following—

(a) to require or request, or to attempt to require or request any officer or employee employed by such person or any individual applying for employment in connection with such business or activity to take any polygraph test in connection with his services or duties or in connection with his application for employment.

(b) to deny employment to any individual, or to discharge, discipline or deny promotion to any officer or employee employed in connection with such business or activity, or to threaten to commit such act by reason of his refusal or failure to submit to such requirement or request.

SEC. 3. Whoever willfully violates or willfully attempts to violate any of the provisions of this Act shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or by both such fine and imprisonment.

SEC. 4(a) Whenever—

(1) any officer or employee of any executive department or any executive agency of the United States Government, or any person acting or purporting to act under his authority, or (2) any commissioned officer as defined in section 101 of title 10, United States Code, or any member of the Armed Forces acting or purporting to act under his authority, or

(3) any person engaged in any business or other activity in or affecting interstate commerce, or any individual acting under the authority of such person,

violates or threatens to violate any of the provisions of sections 1 or 2 of this Act, any employee or officer of the United States, or any person applying for employment in the Executive branch of the United States Government, or any person seeking to establish civil service status or eligibility for employment in the Executive branch of the United States Government, or any individual applying for employment in connection with any business or activity engaged in or affecting interstate commerce, or any employee or officer employed by a person engaged in such business or activity, who is affected or aggrieved by the violation or threatened violation, may bring a civil action in his own behalf or in behalf of himself and others similarly situated, against the offending officer or employee or person in the United States District Court for the district in which the violation occurs or is threatened, or for the district in which the offending officer or person is found, or in the United States District Court for the District of Columbia, to prevent the threatened violation or to obtain redress against the consequences of the violation.

(b) Such United States District Court shall have jurisdiction to try and determine such civil action irrespective of the actuality or amount of pecuniary injury done or threatened, and without regard to whether the aggrieved party shall have exhausted any administrative remedies that may be provided by law, and to issue such restraining order, interlocutory injunction, permanent injunction, or mandatory injunction, or enter such other judgment or decree as may be necessary or appropriate to prevent the threatened violation, or to afford the plaintiff and others similarly situated complete relief against the consequences of the violation.

(c) With the written consent of any person affected or aggrieved by a violation or threatened violation of Sections 1 or 2 of this Act, any employee organization may bring such action on behalf of such person, or may intervene in such action. For the purposes of this section, employee organizations shall be construed to include any brotherhood, council, federation, organization, union, or professional organization made up in whole or in part of employees and which has as one of its purposes dealing with departments, agencies, commissions, independent agencies of the United States, or with businesses and industries engaged in or affecting interstate commerce, concerning the conditions and terms of employment of such employees.

By Mr. FULBRIGHT (by request):

S. 2157. A bill to authorize the appropriation of $1,300,000 as an ex gratia payment to the city of New York to assist in defraying the extraordinary and unprecedented expenses incurred during the 25th General Assembly of the United Nations. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to authorize an appropriation of $1,300,000 for an ex gratia payment to New York City to assist in defraying the extraordinary expenses incurred by the city in regard to the 25th anniversary celebration of the United Nations.

The bill has been requested by the Assistant Secretary of State for Congressional Relations and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Assistant Secretary of State dated June 14, 1971, to the Vice President.

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

S. 2157

A bill to authorize the appropriation of $1,300,000 as an ex gratia payment to the City of New York to assist in defraying the extraordinary and unprecedented expenses incurred during the 25th General Assembly of the United Nations

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $1,300,000 for payment to the City of New York as an ex gratia payment to assist the City of New York to defray the extraordinary expenses which the City incurred in affording protection to visiting chiefs of state and heads of government during the 25th General Assembly of the United Nations.

JUNE 14, 1971.

Hon. SPIRO T. AGNEW,
President of the Senate,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith for the attention of the Congress proposed legislation to authorize the appropriation of $1,300,000 for an *ex gratia* payment to New York City to assist in defraying the extraordinary expenses incurred by the City in regard to the 25th Anniversary celebration of the United Nations.

The 25th Anniversary of the United Nations was celebrated during the autumn, 1970, session of the General Assembly in New York City. In addition to the national delegations normally attending General Assembly sessions, this anniversary celebration was attended by 24 Chiefs of State, 18 Heads of Government, and 44 "special envoys."

The presence in New York City of such a large number of foreign dignitaries required extensive security precautions. Through a special appropriation of $1,650,000 during the last session of the Congress, Federal security officers assisted in providing the necessary arrangements. Even so, an extraordinary burden fell upon the New York City police.

This Administration continues the longstanding policy that the costs of police protection for the United Nations and related missions should not be assumed by the Federal Government. However, it is only fair that the City receive some Federal contribution in recognition of the extra expenses of additional police protection occasioned by the great influx of foreign dignitaries during the 25th Anniversary of the United Nations. A supplemental estimate for the appropriation of $1,300,000 would be transmitted to the Congress if this measure is enacted into law.

A communication similar to this is being sent to the Speaker of the House.

The Department has been informed by the Office of Management and Budget that from the standpoint of the Administration's program there is no objection to the submission of this proposal to the Congress for its consideration.

Sincerely,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

By Mr. BYRD of Virginia:

S. 2158. A bill to designate certain lands in the Shenandoah National Park, Va., as wilderness. Referred to the Committee on Interior and Insular Affairs.

CREATION OF SHENANDOAH WILDERNESS IN VIRGINIA

Mr. BYRD of Virginia. Mr. President, I am today introducing legislation to authorize creation of the Shenandoah Wilderness in Virginia.

The Shenandoah Wilderness would consist of 73,280 acres located within Shenandoah National Park. Creation of this wilderness area has been recommended by the President.

This would be the first wilderness area in Virginia.

I like the concept of wilderness areas. I think it is important that as our population increases and more and more areas of the Nation are settled, we set aside some of our most beautiful countryside in the natural State.

I may be biased, but I know of no more

beautiful landscapes than those in Shenandoah National Park.

Under the staute authorizing the establishment of wilderness areas, a wilderness is defined as "an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain."

We need such areas. We must not permit the headlong expansion of population, settlement, and mechanization to destroy our natural heritage.

We must remember that we are, all of us, only visitors on this earth.

It is not ours to despoil.

In introducing this legislation, I want to take this opportunity to pay tribute to the efforts of the many groups who joined in sponsoring the idea of a Shenandoah Wilderness.

These groups are:

The Atlantic Chapter of the Sierra Club, the Potomac Appalachian Trail Club, the Wilderness Society, the Virginia Wildlife Federation, the Canoe Cruisers Association of Greater Washington, D.C., the National Capital Wilderness Study Committee, the Virginia Division of the Izaak Walton League of America, the Northern Virginia Conservation Council, and the Virginia Society of Ornithology.

In addition, the idea was approved in principle by the Potomac Area Council of American Youth Hostels, Inc., and the Virginia chapter of the Wildlife Society.

To the members of these groups, and to the many others who played a part in advancing the proposal for the Shenandoah Wilderness, Virginia and the Nation owe a debt of gratitude.

I am hopeful that action on the Shenandoah Wilderness will be taken by the Congress at an early date.

At this point I ask unanimous consent to have printed in the RECORD the text of the bill to create a national wilderness in Virginia.

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

S. 2158

A bill to designate certain lands in the Shenandoah National Park, Virginia, as wilderness

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)), certain lands in the Shenandoah National Park, Virginia, which comprise about seventy-three thousand two hundred and eighty acres, and which are depicted on the map entitled "Wilderness Plan, Shenandoah National Park, Virginia," numbered NP–SHE/MP–8D and dated October 1970, are hereby designated as wilderness, and shall be known as the "Shenandoah Wilderness."

SEC. 2. As soon as practicable after this Act takes effect, a map of the wilderness area and a definition of its boundaries shall be filed with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such map and definition shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such map and definition may be made.

SEC. 3. Wilderness areas designated by or pursuant to this Act shall be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

By Mr. McINTYRE:

S.J. Res. 117. A joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day." Referred to the Committee on the Judiciary.

NATIONAL HUNTING AND FISHING DAY

Mr. McINTYRE. Mr. President, in this complex, crowded, too often tense and frustrated world, the need for recreation, for ways to "get away from it all" for awhile are necessary and accepted.

Americans get away from the asphalt jungles, away from the jangling of the telephone, away from the pressures of the daily struggle in rural areas and in cities by going to the countryside, "out with nature." Some play golf, some hike in the forests and parks, some bird watch, and increasing hundreds of thousands each year go hunting and fishing.

There are few recreations which provide a better chance to get exercise which we all need, to find solitude, to breathe some of the little remaining fresh air, and to forget daily cares, than hunting and fishing.

As one indication of the enormous appeal of the sport of hunting and fishing, reports indicate that in 1970 more than 15 million hunting licenses and 24 million fishing licenses were purchased, an increase of 350,000 hunting licenses and 100,000 fishing licenses over the previous year. In my State of New Hampshire alone, 103,000 hunting licenses and 147,000 fishing licenses were secured last year.

For the privilege of hunting and fishing the participants pay nearly $200 million each year for licenses, tags, permits, and stamps.

This income provides a rich source of funds for fish and wildlife conservation and management. Many of the activities being undertaken today to protect wildlife threatened with extinction and to reestablish breeds and strains who are losing their battle for survival has come from hunting and fishing license funds.

I have found that the true hunters and fishermen are among the leaders in trying to preserve our wildlife. Responsible hunters and fishermen are leaders in local and national efforts to rebuild the Everglades, to stop the wanton destruction of threatened breeds of wildlife, to make sure that the pollution of our waters do not wipe out our fishlife.

In addition, responsible hunters and fishermen are among the leaders of those who promote safety in hunting and fishing. Many of the hunting and fishing safety laws in this country have been developed, brought to the attention of the legislatures, and eventually passed into law at the behest of those who are our hunters and fishermen.

Mr. President, I think it is time to give some national recognition to the responsible hunters and fishermen of the country. I am proposing that we ask the President of the United States to set aside the fourth Saturday of each September to recognize this form of recreation and sport in our country.

At the same time we can use this day to assure that we rededicate our Nation to the adequate protection of the land and water wildlife of the Nation, and to promote again and redouble our efforts to see that hunting and fishing recreation is carried on at the highest level of safety for those who participate.

Mr. President, I introduce for appropriate reference this joint resolution.

By Mr. ROTH (for himself, Mr. ALLOTT, Mr. BAKER, Mr. BELLMON, Mr. BOGGS, Mr. BROCK, Mr. BUCKLEY, Mr. BYRD of Virginia, Mr. COOK, Mr. COTTON, Mr. DOLE, Mr. ERVIN, Mr. FANNIN, and Mr. MATHIAS):

S.J. Res. 119. A joint resolution to establish the National Commission on Executive Secrecy. Referred to the Committee on the Judiciary.

NATIONAL COMMISSION ON EXECUTIVE SECRECY

Mr. ROTH. Mr. President, I have been firmly convinced for some time that the right to know is a prerequisite to an effective democracy and a truly representative government. It was for this reason that I embarked upon an effort to expand and enforce that right while a Member of the other House. As Senators may know, my efforts then were to insure that the Congress and the public were fully informed as to the scope and number of Federal domestic assistance programs. Today, I am asking that we take a step toward establishing the right to know in another area of Federal Government: Executive secrecy.

All of us—the Members of Congress, the officials of the executive, the spokesmen of the public, and the representatives of the press—work within a system that was designed to function efficiently and effectively on the assumption that full knowledge would be available at all times to every person. This assumption is clearly illustrated in the works of Locke, Paine, Jefferson, Madison, and the other intellectual founders of the United States. When we in the Congress speak of testing ideas in the crucible of public debate, we assume that the information required to fire that "crucible" will be available to us.

The American people have a right to know, because they pay for a multibillion dollar budget as well as a dark and bloody war; we in the Congress have the right to know, because ours is the constitutional obligation to make laws and declare wars; and the members of the press have the right to know, because they serve as the watchdogs and gadflies of America. However, in the interest of national security, we have traditionally allowed certain exceptions to the general rule that the right to know extends throughout our society. The danger is that the exceptions now threaten to swallow the whole.

There is no question of the need to classify certain information and thereby remove it temporarily from the sphere of

public knowledge; but classifications should be strictly limited to information essential to security. The difficulty is that, human nature being what it is, the classification system tends to become a guardian for personal rather than national security.

I believe that the present administration has been honest with the American public and the Congress. My belief was reaffirmed yesterday by the President's release of the controversial "Pentagon Papers" to the leadership of this Congress. Nevertheless, the dangers inherent in the present classification practices are too great for us to depend upon the good faith of any particular administration. It is a basic principle of our Nation that ours is a government of laws, not men, and of checks and balances, not simple faith. Therefore, I am proposing that the Congress create a temporary commission to study this area in detail. It would be called the Commission on Executive Secrecy.

I am proposing the creation of such a commission, because I also believe that the interests involved are too important for them to be jeopardized for the political advantage of any person or group of persons. Essentially, those who investigate this area must meticulously and carefully balance the interests involved: The right of the executive branch to protect the national security by cloaking some information with "Top Secret" stamp, and the right of the public, the press, and the Congress to know where, why, and how our national resources are used.

This issue has been lying dormant, but was forcefully brought to our attention by the New York Times' publication of the secret Pentagon Vietnam study. We would, however, err seriously by allowing the current differences of attitude concerning Vietnam to color the real issues here: How far does the right of the public and the press to know extend; who decides what information should be protected in the interest of national security, and on what basis; and, for that matter, what is "national security" and how far does it extend?

To me, the "Pentagon Papers" themselves raise some troublesome and deeply disturbing questions. How could such a massive study be conducted and distributed without the knowledge of either the Vice President or the Secretary of State? Why is such a massive study, once completed, distributed to private corporations, but not to the Congress?

This specific issue, and these specific questions may soon be settled, but the larger, more troublesome issues cannot be resolved until the Congress itself acts.

None of us can escape the fact that emotions are running high today in the United States, that there is division and discord throughout our society, because of our long and costly involvement in Indochina. At a time such as this, the temptation to parley an investigation of executive secrecy into political stardom is great indeed. Our obligation here in the Congress is to resist that temptation and insure that any investigation—and I must admit we should conduct one—is made by a group of impartial, fair, and knowledgeable men. They must, in short, be above suspicion.

I can name such men, and I am sure that my colleagues here could name an equal number of equally distinguished gentlemen. One name which to me stands out above all others as uniquely and specially qualified is that of former Senator John Williams, whom most of you here remember well. Senator Williams is as fiercely independent and free of partisan motives as he is acquainted with the national security interests involved. During much of his career here in the Senate, he served as a leading member of the Foreign Relations Committee where he acquired extensive knowledge of the breadth and depth of our Nation's security interests; and, despite attractive political considerations, he consistently demanded of himself and others scrupulous integrity.

I mention Senator Williams' name not necessarily as a candidate for a position on the commission I urge, but as an example of the type men who should be charged with conducting an investigation such as I propose.

I believe we all recognize that the problem confronting us extends beyond the bounds of one war; the problem concerns not merely Vietnam, but our entire security establishment; and not merely newspapers in a few American cities, but citizens throughout the United States. For that reason, I am proposing that the Commission on Executive Secrecy survey the entire area of laws, orders, acts, and practices concerning the classification of information. But since the present controversy is inextricably connected with American involvement in Indochina, I am proposing that the commission review all volumes of what have been called the "Pentagon Papers," as well as related documents. I would hope that all important papers involving Vietnam would be declassified as rapidly as possible so that they may be released to the public at large. Any decision to maintain or reinstate the classifications should be reviewed by an independent commission.

In my opinion, the present rules for the classification of information do not appear to be, in and of themselves, faulty; rather, it is their implementation which is unsound. I fear there will always be overclassification in Government as long as agencies remain responsible only to themselves, and their actions are not subject to review by an independent body. Therefore, I am proposing that the Commission on Executive Secrecy specifically consider the feasibility of establishing a permanent, independent agency responsible to the Congress and charged with insuring the maximum possible disclosure of information.

Because of the urgency involved, I am proposing that the Commission report its findings in all of these areas within 6 months or by February 1, 1972, whichever is later. Although I recognize this is a small amount of time for the size and scope of such a study, I am convinced that extreme speed is vitally necessary.

Typically and tragically, the lack of adequate information in a system like ours leads almost inevitably to mistakes; most of us recognize now that we have all made grave errors during the past decade, many of which have led to the current turmoil, bitterness, and distrust. I, for one, do not believe that we can afford to make any more mistakes. The suspicion and distrust of our citizens already runs deep. Any investigation, especially one concerned with Indochina, must be conducted by men without any possible motives, present and future, other than truth; and, without any possible interests, present or future, other than the Nation's.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD, and that it be referred to the Committee on the Judiciary.

The PRESIDING OFFICER (Mr. WEICKER). Without objection, the joint resolution will be received and referred to the Committee on the Judiciary as requested; and, without objection, the text of the joint resolution will be printed in the RECORD.

The text of the joint resolution is as follows:

S.J. RES. 119

Joint resolution to establish the National Commission on Executive Secrecy

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

ESTABLISHMENT

SECTION 1. There is hereby established the National Commission on Executive Secrecy (hereinafter referred to as the "Commission").

MEMBERSHIP

SEC. 2. The Commission shall be composed of seven members appointed as follows:

(1) two appointed by the President of the Senate from Members of the Senate;

(2) two appointed by the Speaker of the House of Representatives from Members of the House of Representatives; and

(3) three appointed by the President of the United States from private life, not less than one of whom shall be a representative of the press.

ADMINISTRATIVE

SEC. 3. The President of the United States shall designate a Chairman from among the members of the Commission. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

DUTIES

SEC. 4. (a) The Commission shall—

(1) conduct a study of all laws, and of all rules, regulations, orders, and procedures of the Executive branch relating to the classification and protection of information in the interest of the security of the United States;

(2) determine which such laws, rules, regulations, orders, and procedures are necessary, appropriate, and consistent with (A) the freedoms of speech, press, and assembly guaranteed by the First Amendment to the Constitution, (B) the provisions of section 552 of title 5, United States Code, relating to freedom of information, and (C) the proper performance of legislative duties by the Congress of the United States, with due regard to the protection of the security of the United States;

(3) make recommendations for legislation or other governmental action to preserve and protect the security of the United States in a manner consistent with the constitutional right of the people of the United States to

full disclosure of information relating to their Government;

(4) consider the feasibility of establishing an independent agency to insure the full disclosure of such information while protecting the security of the United States; and

(5) review the documents known as the "Pentagon" or "McNamara" papers and related papers to determine whether and to what extent the information contained therein has been or should be properly disclosed to the public, the press, and the Congress consistent with national security requirements, except that the effect which disclosure of that information may have on the reputation of any individual shall not be taken into consideration in the Commission's review.

(b) The Commission shall make such interim reports of its findings and recommendations as it deems advisable, and it shall make a final and complete report of its findings and recommendations to the Congress and the President not later than February 1, 1972. Sixty days after the submission of its final report, the Commission shall cease to exist.

SEC. 5. (a) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of and General Schedule under section 5332 of such title;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals; and

(3) hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee or member may deem advisable.

(b) In the case of contumacy or refusal to obey a subpena issued under subsection (a) (3) by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, the district court, at the request of the Chairman of the Commission, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee or member thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

(c) The Commission shall be "an agency of the United States" under subsection (1), section 6001, title 18, United States Code, for the purpose of granting immunity to witnesses.

(d) In making appointments and procuring services under subsection (a), the Chairman shall include individuals who are competent lawyers, members of the press, and such other persons who may be qualified to assist the Commission in the performance of its duties.

COMPENSATION

SEC. 6. (a) A member of the Commission who is a Member of Congress shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission.

(b) A member of the Commission from private life shall receive $125 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

ASSISTANCE OF GOVERNMENT AGENCIES

SEC. 7. Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman, such data, reports, and other information as the Commission deems necessary to carry out its functions under this Joint Resolution.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated such sums, not to exceed $150,000, as are necessary to carry out the provisions of this joint resolution.

Mr. GRIFFIN. Mr. President, will the Senator from Delaware yield?

Mr. ROTH. I am happy to yield to the Senator from Michigan.

Mr. GRIFFIN. I want to commend the distinguished Senator from Delaware (Mr. ROTH) for introducing this joint resolution and for his discussion of this timely and important subject.

I also commend him for his suggestion that if the resolution should be adopted and such a commission is established, his predecessor, the very distinguished former Senator from Delaware, Mr. John Williams, would be a very well qualified and most acceptable person to be considered for appointment to that commission.

I hope that the resolution just introduced will receive our early consideration. It is certainly an idea and a concept which deserves the attention of the Senate.

I thank the Senator from Delaware.

Mr. ROTH. I thank the Senator from Michigan very much for his kind comments.

Mr. President, I yield the floor.

Mr. BYRD of Virginia. Mr. President, I am pleased to join with the distinguished Senator from Delaware (Mr. ROTH), who has just introduced a Senate joint resolution to establish a National Commission on Executive Secrecy.

It seems to me that this proposal has a great deal to commend it. It is so very important, Mr. President, that something be worked out whereby we can protect the public's right to know and at the same time protect the security of our Nation.

The present system of classification, where the agencies of Government themselves do the classifying, is not satisfactory.

Their actions, I feel, should be subject to review by an independent body.

Mr. President, I personally feel that most of the documents in the Department of Defense are overclassified. Many of them are labeled secret and top secret which, in my judgment, do not deserve such a classification.

I want to say frankly to the Members of the Senate that I may not be as objective in this as some because all of my adult life has been spent in the newspaper business, mostly as an editor and publisher. The job of newspaper publishers is to present to the public as much information as possible.

So, I may not be completely objective in considering documents labeled secret and top secret and other classifications by the Penatgon.

I feel that a commission to study this matter would be highly desirable. I think it is very important that the American public be given by the Government all the facts that can be given to the public without jeopardizing national security.

The purpose of the Commission which the joint resolution submitted today by the Senator from Delaware (Mr. ROTH) would be to explore this problem and to present guidelines. It attempts to protect the national security requirements of our Nation, while at the same time making available to the people of our Nation as much information concerning their Government as is possible. It seeks to explore the maximum possible disclosure of information.

I am also in full accord with one of the assertions made in the excellent speech of the Senator from Delaware in which he mentioned that a commission of this type should include as its members individuals such as the beloved and able former senior Senator from Delaware, former Senator John Williams.

As the successor of the former senior Senator from Delaware, the present Senator from Delaware (Mr. ROTH) said on the floor of the Senate a while ago that one name stands out above all others as uniquely and specially qualified, and that is former Senator John Williams.

The Senator from Delaware said that John Williams is as fiercely independent and free of partisan motives as he is acquainted with the national interests involved.

Most certainly he is. Men like John Williams are badly needed in government.

The establishment of a commission as envisioned in the resolution submitted by the Senator from Delaware would be most helpful to the long-range future of our country. I support his endeavor in this regard.

I think what has happened in the last 10 days in regard to the top secret report on the beginnings of the Vietnam war dramatizes the need for Congress to come to grips with a very difficult problem.

The Senator from Delaware has presented a way that Congress can face this problem.

I frankly find it somewhat difficult to make a clear judgment in the controversy that exists between the New York Times and other newspapers on the one hand and the Department of Defense on the other hand.

I am convinced that most of these documents in that massive report should not to be labeled top secret. Most of it is in the nature of ancient history. But it has been labeled top secret. That brings to mind whether each individual editor can, on his own, determine what top secret material will not jeopardize the security of our Nation.

I think, also, that those who stole this document, and certainly the newspapers did not steal it, should be prosecuted to the fullest degree.

It is inconceivable to me, with such a limited number of documents published and such a massive document as it is, that the culprits could not be rather easily ascertained. I think that information should be ascertained, and should be made public.

Mr. President, I also wish to commend, as did the Senator from Delaware, the President of the United States for making that information available to Congress.

It is inconceivable to me that the Department of Defense would not have made this report available to the appropriate committees of Congress when it first came to the attention of the committees. But I understand that at least one committee, the Committee on Foreign Relations, some time ago was denied access.

I think the document should be made available, as the President did make it available yesterday to the Committee on Armed Services of the Senate and the Committee on Foreign Relations.

If too many of these documents have been stolen from the Department of Defense, then the two committees can work together with only one copy. But certainly the information, the full report, should be made available to the Senate as it was yesterday by the President.

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

Mr. BYRD of Virginia. I yield.

Mr. ROTH. Mr. President, I wish to thank the Senator from Virginia for his support on the joint resolution and for his fine words about its need.

I would like to say, also, that I can state from personal knowledge the high regard in which my predecessor held both the Senator from Virginia and his father. Many times he talked to me about this, and I know he will appreciate it.

Mr. BYRD of Virginia. Mr. President, I yield the floor.

A few years ago a friend suggested to me that I should ask the appropriate agency of Government for a copy of the report of the American Consulate in Kobe, Japan, which he assured me would manifest how the Japanese and others in the Far East were exceeding their self-established quotas.

I found that the State Department and the Commerce Department were the appropriate agencies from which I could get a copy of the report. When I did, the one from the State Department was marked highly confidential and was furnished to me with the understanding I would not make any public use whatever of its contents. I also received a copy from the Department of Commerce. It was not restricted in any manner. So it is a rather absurd thing to have a government imposing secrecy under conditions where its right hand does not know what its left hand is doing.

Mr. ERVIN subsequently said:

Mr. President, I would like to join the Senator from Virginia in the remarks he has made and to state that at his invitation I am cosponsoring the proposal of the distinguished Senator from Delaware to establish a commission to study all the implications of this question of governmental secrecy.

Frankly, from my experience in Washington, I think the Government runs the question of confidentiality and the withholding of information into the ground. The picture varies from department to department.

I am interested in textiles because 50 percent of all the people in my State who work in manufacturing industries are engaged in the production of textile products or clothing.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 78

At the request of Mr. NELSON, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 78, a bill to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft.

S. 571

At the request of Mr. PEARSON, the Senator from Oklahoma (Mr. BELLMON) was added as a cosponsor of S. 571, an act to regulate the importation of meat and meat products.

S. 1026

At the request of Mr. Moss, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 1026, a bill to amend the Small Reclamation Projects Act of 1956, as amended.

S. 1167

At the request of Mr. Moss, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 1167, a bill to amend title 39, United States Code, as enacted by the Postal Reorganization Act, to prohibit the mailing of unsolicited samples of cigarettes.

S. 1245

At the request of Mr. Moss, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 1245, a bill relating to the preservation of historical and archeological data.

S. 1311

At the request of Mr. PEARSON, the Senator from Montana (Mr. MANSFIELD) and the Senator from Illinois (Mr. PERCY) were added as cosponsors of S. 1311, the Newsmen's Privilege Act.

S. 1445

At the request of Mr. Moss, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 1445, a bill to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes.

S. 1645

At the request of Mr. CHURCH, the Senator from Missouri (Mr. EAGLETON), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 1645, a bill to increase benefits to the elderly under title II of the Social Security Act.

S. 1824

At the request of Mr. NELSON, the Senator from Iowa (Mr. HUGHES) was added as a cosponsor of S. 1824, a bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety, reliability, and effectiveness of medical devices.

S. 1874

Mr. MAGNUSON. Mr. President, I ask unanimous consent that at the next printing, the names of the Senator from Vermont (Mr. AIKEN), the Senator from Alabama (Mr. ALLEN), the Senator from Indiana (Mr. BAYH), the Senator from Maryland (Mr. BEALL), the Senator from North Dakota (Mr. BURDICK), the Senator from New Jersey (Mr. CASE), the Senator from Kentucky (Mr. COOPER), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from New York (Mr. JAVITS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PASTORE), the Senator from Kansas (Mr. PEARSON), the Senator from Rhode Island (Mr. PELL), the Senator from Illinois (Mr. PERCY), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alaska (Mr. STEVENS), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) be added as cosponsors to S. 1874, to provide for the establishment of projects for the dental health of children to increase the number of dental auxiliaries, to increase the availability of dental care through efficient use of dental personnel, and for other purposes.

Mr. HOLLINGS. Mr. President, today I have had my name added as a cosponsor of S. 1874, the "Children's Dental Health Act of 1971." This bill addresses itself to the immediate dental needs of 1.5 million children from low-income families and to the predictable future national needs for expanded dental services. These needs would be met by the authorization of $338 million to be spent over a 5-year period.

First, the Secretary of Health, Education, and Welfare would be authorized to provide preventive, corrective and follow-up services for 1.5 million children from low-income families. Presently, 70 percent of these children have never been

to a dentist. In addition to not receiving professional care, many of these families do not know how to practice good dental hygiene. As a result, their teeth deteriorate and require extensive treatment in later life, as is reflected by the $208 million spent by the Government in 1969 to provide dental care to welfare recipients. The pilot projects authorized by S. 1874 are a start toward treating these people early and toward educating them in how to take better care of themselves.

Next, the bill would authorize the Secretary to make grants to pay part of the cost of fluoridation to communities desiring such a system. This program in no way requires a community to fluoridate its water, but merely provides assistance to those who feel this is a desirable method of reducing tooth decay.

A very significant provision of this bill is the authorization of $97 million to pay the cost of training 27,000 dental auxiliaries. Because of the critical shortage of dentists, their productivity must be maximized. Expanded use by dentists of dental auxiliaries is a good way of expanding dental availability. The bill would also authorize the Secretary to pay the cost of programs to teach dentists and dental students how to work with auxiliaries to form efficient dental teams.

In South Carolina, there are an estimated 733 dentists, or, one dentist for every 3,625 people. The national average is one dentist for every 2,100 people, and even this ratio is not generally considered to be adequate. Further, in South Carolina, as in most other States, dentists are unevenly distributed geographically, with over 50 percent located in only four of the State's 46 counties. In six rural counties, the ratio of dentists to population is one dentist for 10,000 or more people. The pilot dental care projects authorized by this bill, combined with the expanded use of dental auxiliaries by dentists, should go far to correct the dental health problems that presently exist in South Carolina and throughout the country.

The national dimensions of the dental health problem are quite telling. I ask unanimous consent to insert at this point a fact sheet which sets forth some of these national statistics, and I urge favorable consideration of this legislation.

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

DIMENSIONS OF NATIONAL DENTAL HEALTH PROBLEM

1. Dental disease is all but universal;

2. Fewer than half the people in this country have dental exams or treatment in a given year; far fewer than that receive dental care on a regular basis;

3. Over 50 per cent of all Americans over age 65 have lost all of their natural teeth;

4. Of the total adult population of approximately 110 million, more than 20 million have lost *all* their natural teeth; of the 90 million with teeth 25 per cent have destructive periodontal disease and over 50 per cent have some stage of gingivitis;

5. By age two, approximately 50 per cent of America's children have experienced tooth decay. On entering school, the average child has three decayed teeth and by age 15, the average child has 11 teeth decayed, missing or filled;

6. Approximately 50 per cent of the children in America have gingivitis, which can lead to progressive periodontal disease, a major cause of tooth loss in adults;

7. Nearly 50 per cent of all children under age 15 have never been to a dentist. This percentage is substantially higher for children in rural areas;

8. Almost 70 per cent of the children in poor families have never been to a dentist;

9. Cleft palate, with or without cleft lip, occurs about once in every 700 births;

10. Oral cancer is discovered in 14,000 new patients each year and accounts for over 7,000 deaths yearly. Of those who have had treatment approximately 22 per cent are in need of maxillo facial prosthesis;

11. For every 100 Selective Service recruits, the Armed Forces needs to perform or supply 500 fillings, 80 extractions, 25 bridges and 20 dentures.

S. 2023

At the request of Mr. BAYH, the Senator from Rhode Island (Mr. PASTORE), the Senator from Utah (Mr. MOSS), the Senator from New Jersey (Mr. CASE), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of S. 2023, a bill to provide for a procedure to investigate and render decisions and recommendations with respect to grievances and appeals of employees of the Foreign Service.

S. 1081

At the request of Mr. BAYH, the Senator from Rhode Island (Mr. PELL), the Senator from Indiana (Mr. HARTKE), and the Senator from Connecticut (Mr. RIBICOFF) were added as cosponsors of S. 1081, a bill to extend benefits to killed or disabled firemen and policemen.

S. 1893

At the request of Mr. BIBLE, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 1893, a bill to restore the golden eagle program to the Land and Water Conservation Fund Act, provide for an annual camping permit, and for other purposes.

S. 1896

At the request of Mr. Moss, the Senator from New Hampshire (Mr. PROUTY) was added as a cosponsor of S. 1896, a bill to amend section 409 of part IV of the Interstate Commerce Act, as amended, to authorize contracts between freight forwarders and railroads.

S. 2111 THROUGH S. 2123

At the request of Mr. JAVITS, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 2111 through S. 2123, bills relating to the recycling of waste materials.

S. 2127

At the request of Mr. PEARSON, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 2127, a bill to authorize road improvements at Perry Reservoir, in Kansas.

SENATE RESOLUTION 143—SUBMISSION OF A RESOLUTION RELATING TO THE EMPLOYMENT OF PERSONS WITH SPANISH SURNAMES

(Referred to the Committee on Post Office and Civil Service.)

Mr. McGOVERN. Mr. President, when it comes to employing Mexican Americans, the Federal Government has a most unsatisfactory record. The Government is perfectly willing to impose employment goals and quotas on private industry, as in the Philadelphia plan. But when it comes to imposing goals and quotas on itself, that is another story.

The Federal Government is the Nation's largest employer. The latest available figures indicate that 2,601,639 persons are employed in civilian capacities by the Federal Government. Only 2.8 percent of those employees have Spanish surnames, and that includes Puerto Ricans.

That percentage can be put in perspective by the fact that between 5 and 7 percent of the Nation's population have Spanish surnames. Clearly, on a population basis, Mexican Americans are grossly underemployed by the Federal Government.

The President has the power today to issue an Executive order setting a specific goal for employment of Mexican Americans by the Federal Government. If that goal were set at 5 percent, that would mean 55,000 additional jobs for Mexican Americans.

But total number of jobs is not the only issue here. What level jobs is also an issue. Mexican Americans have historically been excluded from management and supervisory positions. At this moment, only 35 jobs, or one-third of 1 percent, of the Federal Government's top 9,286 jobs are held by persons with Spanish surnames. Only 133 of the top 24,300 jobs are held by persons with Spanish surnames.

In California, which has the largest Mexican population in the Nation, the Federal Government employs three times as many persons as the State. The Internal Revenue Service in the State employs 4,457 persons, only 108 of which, or 2.4 percent, have Spanish surnames. That is really taxation without representation. The Department of Health, Education, and Welfare employs 5,429 persons in the State; only 234, or 4.3 percent, have Spanish surnames. Further, 189 of the 234 are paid poverty level wages by the Government.

This failure of the Federal Government to provide equal employment opportunities to Mexican Americans transcends Republican or Democratic administrations. The low level of employment has held steady since the early 1960's.

And California itself is not doing much better than the Federal Government. Of the State's 117,431,000 jobs, only 4,289, or 3.64 percent are held by Mexican-Americans. And the average pay for Mexican-Americans is $1,176 lower than the average pay for whites—a gap that has widened by 26 percent since 1960.

This unfair treatment by both the Federal and State Government persists in the face of grievious unemployment among Mexican-Americans. Once again, unemployed Mexican-Americans, as such, are not specifically counted by the Government. But reliable estimates place average Mexican-American unemployment at 18 percent. In especially impacted areas like East Los Angeles the figure is probably over 20 percent. Can you imagine

what 55,000 jobs would mean for these unemployed people and their families?

The time is long past to end the hypocrisy of equal employment opportunity practiced by the Federal Government since President Eisenhower issued the first equal opportunity Executive order in 1955. It is time for the Federal Government and the State of California to follow the principle of employment of Mexican-Americans, and other minorities, commensurate with their percentage of the total population.

Recently, at their annual stockholders meeting, the president of Pacific Telephone announced that his company, the largest private employer in California, would achieve that objective by 1975. If Pacific Telephone can do it, I do not see why the Federal Government and the State of California cannot.

All it would take is a stroke of the pen. The Civil Service Commission has recommended it. In July of last year, five major Mexican-American organizations asked for such an Executive order. Yet the President has yet to pick up his pen.

For that reason, I am today submitting a sense-of-the-Senate resolution urging and requesting the President to issue an Executive order establishing the policy that, within 5 years after the date of enactment, Federal employment of Mexican-Americans, Puerto Ricans and other Spanish surnamed persons shall be commensurate with their percentage of the total population of the United States at all levels of Government employment, including management and supervisory positions.

The resolution is as follows:

SENATE RESOLUTION 143

Whereas, the Government of the United States is the largest employer in the nation having over 2,600,000 employees; and

Whereas, there are between 7,000,000, and 10,000,000 Mexican-American persons in the United States, and at least 1,500,000 Puerto Rican persons in the United States, and at least 2,000,000 other Spanish surnamed persons in the United States, constituting 5 to 8 percent of the nation's population; and

Whereas, only 2.8 percent of those employed by the Federal Government are persons with Spanish surnames; and

Whereas, only 35 jobs or one-third of 1 percent of the Federal Government's 9,300 highest paying jobs are held by persons with Spanish surnames and only 133 of the 24,000 highest paying Federal jobs are held by persons with Spanish surnames; and

Whereas, reliable estimates place average Mexican-American unemployment at at least 18 percent: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President of the United States is urged and requested to issue an Executive Order establishing the policy that within five years after the date of enactment of this resolution employment of Spanish surnamed persons shall be commensurate with their percentage of the total population of the United States, at all levels of government employment, including management and supervisory positions.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATIONS—AMENDMENT

AMENDMENT NO. 233

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

Mr. MONDALE. Mr. President, on behalf of Senator CASE, Senator JAVITS, Senator PROXMIRE, and myself, I am introducing an amendment to H.R. 7109, the NASA authorization bill.

This amendment would delete $137.6 million from this bill—$100 million for development of the space shuttle, $20 million for shuttle facilities, and $17.6 million for detailed studies and design of the space station.

This $137.6 million is only the tip of an iceberg. Authorizing these funds will further commit us to a manned space extravaganza which will cost between $20 and $25 billion.

If we proceed with this project, NASA's annual budget will be in the $7-billion range by the late 1970's. In contrast, we can have a truly useful and scientifically productive space program by relying on unmanned, instrumented flights. Such a program—according to Dr. James Van Allen and other eminent space scientists—would cost no more than $2 to $2½ billion per year, and it would not involve the enormous investment required for the shuttle and station.

In addition to wasting scarce resources, there are serious questions about the feasibility of this project. For example, the space station—which is intimately related to shuttle development, despite NASA assertions to the contrary—rests on the assumption that man can adapt to long duration space flight. But we will not know whether such manned flights are possible until the Skylab missions are completed in 1973. It, therefore, makes no sense to continue development of the shuttle and station until this data is available.

It is no wonder, then, that this program has aroused strong opposition in the scientific community. In a recent study on the future of the space program, the Space Science Board of the National Academy of Sciences concluded that—

It is clear that space science and applications by themselves are insufficient to justify the cost of developing the shuttle.

There are also serious doubts about NASA's claim that the shuttle will eventually be economical. Centering on these economic arguments, a Rand Corp. study for the Air Force concluded that the development of the shuttle is "not easy to justify." And even a study paid for by NASA—which purports to justify the shuttle on economic grounds—leaves serious questions as to whether the shuttle is truly cost effective.

Given the huge sums of money at stake here, we believe that the question of proceeding with the shuttle and station is no less important than the debate over the SST.

Mr. President, I ask unanimous consent that the following items be inserted at this point in the RECORD:

A letter of May 31, 1971, from Dr. James Van Allen—discoverer of the Van Allen radiation belts in space; consultant to the Space Science Board of the National Academy of Sciences; consultant to the President's Science Advisory Committee; chairman of the department of physics and astronomy, University of Iowa.

A letter of June 5, 1971, from Dr. Thomas Gold—member of the President's Science Advisory Committee; consultant to NASA and member of NASA Lunar and Planetary Missions Board; director, Cornell University's center for radio-physics and space research.

A letter of June 29, 1970, from Dr. W. Ross Adey—principal investigator for NASA of the Biosatellite III Mission; professor of anatomy and physiology and director of the space biology laboratory, UCLA.

A letter of May 4, 1971, from Brian O'Leary—assistant professor of astronomy and space science and a former scientist-astronaut with NASA.

Mr. President, I also ask unanimous consent that the text of our amendment be printed at this point in the RECORD:

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

THE UNIVERSITY OF IOWA,
Iowa City, Iowa, May 31, 1971.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: I am writing to again express my distress at the emphasis that the National Aeronautics and Space Administration is giving to the space shuttle/space transportation system as the dominant element of its future program. I do so, not as an outside, mindless critic of the national space program, but as one who has worked in space exploration as a professional since late 1945 and expect to continue to do so for many more years.

Advocacy for the space shuttle rests primarily on the intuitive belief that anything that is technologically conceivable should be done and that, somehow, the outcome will justify the effort. This belief is held with religious fervor within the aeronautics industry and kindred elements of the government. I well understand the foundations for such a belief and have myself been an adherent to it in various contexts. Yet at some level of cost and resources in a tax-supported technological effort, responsible public policy requires the demonstration of specific human benefits on a scale commensurate with the effort. Corresponding criteria in the private sector are agreed by all concerned parties to be fundamental to survival in the market place.

The recent action of the United States Senate in discontinuing public support for development of the supersonic transport is a case in point. I consider that the space shuttle program is "cut from the same cloth" and should be subjected to corresponding cost-benefit considerations.

In the early stages of space exploration, human adventure and the recovery of national prestige following the Soviet success with Sputnik I were driving forces in our national effort. But at the present stage we should, in my judgment, shift our emphasis forthrightly and explicitly to two and only two objectives:

(a) Utilitarian uses of space technology, both civil and military, and

(b) Scientific exploration.

The first of these objectives should be dominant. A well designed program of space applications can be closely matched to human needs and desires and can be essentially self-justifying, i.e., it can "pay its own way". I am thinking here primarily of the areas of efficient radio communication with all of its immense potential for advancing the educational and cultural levels of many millions of persons throughout the world as well as for routine technical purposes, and of reconnaissance in its broadest sense. Both of these applications can be well served by a rela-

tively small number (say 50) of long-lived, unmanned satellites in the 1,000 to 10,000 lb. class. Updating and replacement of elements of such world wide operational systems are envisioned as requiring no more than 10 launches per year.

Scientific exploration, the second objective, is of a different nature. It feeds man's deep-seated intellectual interest in the origin of the physical universe and in its detailed workings at the present time. This interest is increasingly widespread as the general educational level of our citizenry is raised. As a teacher and lecturer in the physics and astronomy of the solar system, I am ever more impressed by the broad popular interest in purely scientific matters. The close-in study of the huge outer planets by space techniques is a case in point. I believe that the support of science for its own sake is a proper function of the federal government, without apology or obfuscation. It is one of the fields of endeavor that enables man to have a higher purpose in life than bare survival as an animal.

Advocates of the space shuttle do, perhaps, join me in enthusiasm for the above objectives. But, at least ostensibly, they rest their case on representations that the shuttle technique offers important savings in cost for the accomplishment of these objectives. I have studied these claims and conclude that they are based on:

(a) Gross over-estimation of the volume of space traffic (i.e., tons of payload into orbit per year) that can be reasonably anticipated;

(b) Substantial under-estimation of the developmental and operational costs of the shuttle program; and

(c) Apparent disregard for other techniques for the reduction of the costs of space exploration that are either available at present or can be reliably forecast (e.g., *long-lived* observatories, improved schemes, for data reduction and display, improved efficiency in the manufacture of conventional boosters and of guidance and control systems, adaptation and rework of surplus military boosters, etc.).

Even if their claims are valid, they visualize growth of the annual space budget of the National Aeronautics and Space Administration to some $7 billion in the mid 1970's, whereas I estimate that the proper objectives of the national space program can be met in a vigorous and effective way by unmanned techniques at the annual level of some $2 billion. In general support of this comparison, I call attention to the following facts:

(a) The President's budgetary request for NASA for the fiscal year 1972 totals $3.27 billion of new obligational authority.

(b) Of the total, about 50% is devoted to science and applications in all of their ramifications, a thoroughly vigorous program.

(c) The other 50% is devoted to manned flight. Yet during FY 1972, only two actual flight missions are contemplated—Apollos 15 and 16. Even these two flights depend primarily on existing facilities and previously paid-for flight hardware. The flights have little utilitarian significance and relatively restricted scientific objectives as viewed in the larger context of space science with all of its richness and diversity.

Let me conclude by remarking that I do not contest the eventual feasibility of a space shuttle system, given sufficient technical resources. My position is essentially that an effort of this magnitude is inappropriate to the national context of the 1970's. Moreover, I fully expect that concentration on such a development during this decade would seriously detract from and diminish the realization of the many meritorious and clearly defined objectives that our national space program has within its capability at a reasonable and justifiable cost, i.e., a cost that will enjoy widespread and durable public support.

Sincerely yours,

J. A. VAN ALLEN,
Head of Department.

CORNELL UNIVERSITY, CENTER FOR RADIOPHYSICS AND SPACE RESEARCH,
Ithaca, N.Y., June 5, 1971.

Hon. WALTER F. MONDALE,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: We all have to be very much concerned that the sharply limited funds that will be available to the space program in the next few years are allocated to the best advantage. In terms of valuable applications and rich scientific knowledge and understanding, there is very much to be gained. Our lead in both areas has important consequences economically, militarily and, not least, for the esteem accorded us by other nations.

The proposed space shuttle would have many of the advantages claimed for it, but nevertheless I consider it a most unwise step to take at the present time. It seems impossible to justify it economically, except if a great increase in the weight to be sent into orbit, and in the NASA budget, could be foreseen, and even then only after very many years of usage. The recent study by the Rand Corporation documents this clearly. We have no reason now to expect such a very large expansion. The technology of payloads is improving so that more and more can be achieved within a given weight limitation. One can foresee improvements in reliability that make the return capability less important. A large proportion of the traffic to earth orbit will be to high synchronous orbits where the advantages of the shuttle are less pronounced.

The shuttle will have to be used until 1990 or longer before there is any possibility of amortizing it. In deciding on such a very long range technological program, one is deciding to freeze technological evolution for many years. Major improvements in booster technology can be expected within the next 20 years, resulting from the continued military requirements for expendable boosters; yet none of these can contribute to the NASA or military peacetime space program without detracting still further from the utility of the shuttle.

A military program of many launches of expendable boosters will need to be carried out in any case to assure correct performance and reliability. If the shuttle were to take over all civilian and military space projects, then more military test shots without useful payloads will be required.

A definite decision in favor of the development of very large space stations in the late 70's and through the 80's would change all these arguments. A continuous requirement to supply and exchange personnel could readily consume a volume of traffic that would put the shuttle economically ahead of expendable boosters. Thus the development of the shuttle now should be regarded really as a decision in favor of a massive program of manned earth orbital flight exercises. Such a step, a major commitment for the future, should not be taken lightly. We should not allow ourselves to drift towards a policy which we would not now consciously be willing to embark upon.

At the present time there is no clear understanding of the utility of such space stations. Manned flight to Mars or other planets may be attempted one day, but probably only after much superior means of propulsion have been devised. A program for the shuttle now would hinder rather than help in that regard, since it will divert funds away from other areas of technological advance.

Remote control methods can be devised to accomplish in earth orbit all that men can do and at very much lower cost. The economic importance of the development of remote control machinery is likely to be very great for many applications other than those in space, such as mining, manufacturing, deep sea prospecting, drilling, etc. The space program can make a major contribution in the development of that technology if this, rather than manned flight, were to be the first priority.

It is clear that the decision in favor of the shuttle would commit us now, for very many more years than we can see ahead, to a line of activity of doubtful value. As a major and very visible expenditure, it would be most critically viewed by many people, and one must fear that a large and ill-justified item would become a focal point of opposition to space expenditures altogether, and that all of NASA, and even the most desirable space efforts would then suffer.

Our present policy in space should be to concentrate on applications and on genuine scientific discovery. In the applications field there are many great things to be done. Communication systems will completely change patterns of commerce and reduce the need for passenger transportation. The direct global distribution of very many channels of television to individual receivers on the ground would have a very great impact and economic importance. Many educational programs and programs of cultural value could then be made available on a worldwide basis. In the scientific area the understanding of the planets will give new insights into the structure and derivation of our own planet. This in turn will improve our capability of adjusting its resources to human needs.

Heavy, long-lived, long lead time institutional programs may be thought desirable within NASA to stabilize the organization, but they stand in the way of most of the worthwhile tasks that NASA could undertake at present. We must therefore find ways of giving NASA the continuity that this great organization clearly requires, without forcing upon them a pattern that is not in the best interests of science, space applications, or indeed any of the national needs.

Yours very sincerely,

T. GOLD,
Director.

UNIVERSITY OF CALIFORNIA,
LOS ANGELES,
Los Angeles, Calif., June 29, 1970.

Senator WALTER F. MONDALE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: With Senate action now pending on the Space Shuttle, I submit for your consideration the following viewpoints as important in the determination of priorities in the space program in the coming decade. I write as a concerned biomedical scientist who has participated in the space program for the past ten years, both as an investigator in manned and unmanned flights, and as a member of committees and review bodies with an advisory role to both government and NASA.

Priorities in the space program since its inception have placed major emphasis on manned programs, with particular emphasis on the engineering aspects of needed hardware for reliable mission accomplishment. Although there can be no quarrel with the development of spacecraft engineering with reliability assured for manned flight, the price paid has been very high, so high that it appears to have been markedly detrimental to a balance between manned and unmanned space developments. Moreover, emphasis within the manned program has been on man as a test pilot in evaluation of engineering goals, rather than as a biological system himself, requiring the same careful long-term and detailed evaluation if the goal of long-term space flight is to be accomplished.

Biomedical information currently available is not adequate in critically important areas for the design or construction of space stations or interplanetary spacecraft. Specifically, we do not know whether it will be necessary to provide artificial gravity by some form of rotation or part or all of the space-

craft. Biomedical evidence from the U.S. manned program, and particularly from the recent U.S. monkey biosatellite flight, and from the Soviet Soyuz–9 manned flight, all indicate that there are significant problems of cardiovascular instability, body weight loss, and associated disturbances in daily body rhythms and certain nervous functions.

Yet to build spacecraft with a full artificial gravity as on earth, provided by rotation, predicates systems of very large dimensions for acceptable human comfort. Moreover, levels of gravity much less than 1 G may be adequate to prevent medical deterioration, and it is possible that drug and hormone therapy, properly developed, may greatly assist on long missions.

No adequate biomedical basis for these engineering systems is now available, either in the NASA or in the biomedical community. Therefore, it is imperative that NASA collect comprehensive biomedical data as an engineering baseline for design of future spacecraft for prolonged human occupancy.

It is here that there are grounds for concern. NASA has a long history of making commitments to biomedical investigations, which have been repeatedly reduced or even shelved in favor of mission goals of a primarily engineering character. The proposed medical studies in the Skylab missions were initially designed to overcome many deficiencies in the current status of space medicine and physiology. Every effort should be made to safeguard the prime importance of the biomedical aspects of these missions.

In this context, development of a Space Shuttle should be reviewed in terms of its potential contribution to acquisition of needed biomedical information. Its use as an adjunct to physical and life science investigations should be evaluated against likely progress of biomedical research in the Skylab program in the absence of such a vehicle. Medical and psychological studies planned for Skylab will provide much needed information relevant to design of spacecraft for prolonged human occupancy. They are expected to settle many basic issues concerning needs for artificial gravity.

Therefore, it is submitted that the program for a Space Shuttle might well remain in the phase of fundamental research and feasibility studies, pending the outcome of medical investigations in the Skylab program. At the same time, avoiding commitment to heavy expenditure in this area would afford an excellent opportunity to redress the traditional imbalance between manned spaceflight programs and other more modest but highly important developments. These include fundamental space biology related to medical problems of man in space, and studies in the physical sciences in planetary programs, as well as in areas of the NASA Space Applications program.

Thank you for your consideration.

Sincerely,

W. Ross Adey, M.D.,
Director, Space Biology Laboratory.

California Institute of Technology,
Pasadena, Calif., May 4, 1971.

Hon. Walter F. Mondale,
U.S. Senate, Old Senate Office Building, Washington, D.C.

Dear Senator Mondale: I would like to again express my deep concern about NASA's plans to develop a space shuttle. When a new technological development costing tens of billions of dollars is first introduced to the American people, it is clear that questions must be raised about such a system's role in a wide range of competing national priorities before any commitments can be made. In this context you have been one of precious few individuals who has publicly questioned the wisdom of proceeding with a space shuttle at this time. After taking a careful look at NASA's proposal, I find myself in complete accord with your feelings. In particular, I cannot see the relevance of the space shuttle, and therefore of an expanded space program, to the pressing problems facing our nation this decade. These are my thoughts as an American citizen.

But as a space scientist, I am also concerned about the role of the space shuttle in terms of NASA's internal priorities. Although NASA claims the system to be inexpensive, the research and development of the shuttle are estimated to cost $11 to $12 billion. Such funds would not only dominate NASA's budget of the 1970's, but would also inflate it to a peak annual funding somewhere between $6 and $10 billion, a range greater than the amount NASA spent during the peak year of Apollo. I worry mostly because, once again, NASA seems to be preoccupied with the philosophy of developing a transportation system rather than the business of exploring space. From a scientific point of view, it is obviously more advantageous to have a mission tailored to your needs rather than to have your experiments coming as an afterthought to an operational program. The unmanned science and applications satellites and planetary probes are good examples of missions tailored to science. In Apollo, unfortunately, the tendency has run in the other direction, and I am afraid that the space shuttle portends the same. Perhaps most significantly from the taxpayers point of view, it is a plain fact that nearly all tasks in space sciences and applications can be done as effectively with existing unmanned spacecraft at one to ten percent the cost of existing manned spacecraft.

Why, then, does NASA claim that the space shuttle represents a "low cost space transportation system" and an "essential element in implementing a balanced space program"? Their argument rests on the premise that, because of its reusability, the recurring cost per pound of payload for the shuttle would be considerably less than for expendable boosters. This allows more payloads and bigger payloads, both manned and unmanned, to be hoisted into Earth orbit at a lower cost *rate* than with existing launch vehicles. Moreover, satellites can be more easily refurbished and perhaps even brought back to Earth for repair or for data return.

But let us look at the details. NASA plans to launch one shuttle per week, each one containing approximately 40,000 pounds of payload. To carry less payload on any mission would accordingly reduce the economy of the shuttle in any tradeoff analysis with existing systems. To have less shuttle launches would also reduce the shuttle economy. The shuttle would therefore place into Earth orbit more than two million pounds of payload per year, a rate which is five to ten times our present rate. The total tonnage of all payloads put into space to date by both the United States and the Soviet Union would be reached in about two or three years of shuttle operation. Is it desirable to put 20 tons of material per week into space? How much will the added payload cost? Note that we have the additional constraint of scheduling, that is, one needs to satisfy the rigid weight and volume requirements of the shuttle and to lump diverse payloads together into an orbit of given inclination. On the other hand, expendable boosters represent a broad spectrum of payload-launching capabilities which can be tailored to the needs of a given experiment. In the case of the shuttle an experiment would compete with several others aboard the spacecraft and therefore must be tailored to the needs of the aggregate and of the shuttle launch schedule.

Moreover the short seven-day orbital lifetime maximum of a shuttle, because it is manned, implies the existence of a permanent space station. How many billion dollars would such a station cost to develop? Will Saturn 5's be needed to launch the larger modules comprising the space station because of the limited payload volume of the shuttles? The interrelation between the space shuttle and station further constrains the economics of the shuttle and is absent in NASA's discussions this year, in contrast to discussions last year. Finally one wonders how the development of a lunar base could also fit in with the inflationary NASA budget attributable to research and development of the space shuttle and station.

In spite of these basic economic problems confronting the shuttle, let us assume that it is indeed worthwhile to launch more than two million pounds of payload into earth orbit each year and that a greatly expanded NASA budget during the 1970's is acceptable. Which system is more economical, the shuttle or the expendable booster? Stated somewhat differently, how many years will it take before the total cost of sending these payloads with existing boosters exceed that of sending them with space shuttles? Although various studies conflict there appears to be a general consensus that at least one decade of operation is required before the shuttle becomes less expensive even under the most optimistic assumptions about the shuttle's economy. The short-run higher cost of the shuttle is attributable to the $11 to $12 billion required for research and development during the peak funding years in the 1970's plus the interest on that money projected into the 1980's and 1990's.

The economy argument alone convinces me that proceeding with NASA's space shuttle, as presently configured, is nonsense, even if one wished to place two million pounds of payload into Earth orbit per year. It is not a low cost transportation system; it is a very expensive transportation system. I believe that these facts will become more and more apparent in further revelations, particularly when or if the funding is drastically stepped up, as it must for the shuttle to become a reality. Evidentally NASA has not carefully perceived the political and economic climate in which they are operating. Moreover, I believe they have not been honest in assessing their motivation for proposing the space shuttle. In my opinion, the primary reason is not economics; rather it is a commitment to a new technology which would serve as a "make work" project for NASA and its contractors in a crippled aerospace industry. It is not difficult to imagine, however, that once the shuttle becomes operational at the end of the decade and the funds have already peaked out, aerospace may once again search for a new space technology in order to maintain its accustomed pace. Ironically, such a move would probably supercede and invalidate the economy of a steady multi-decade shuttle plan.

Would this not be a good time to make work for the aerospace industry in solving domestic problems through engineering? For the tens of billions of dollars needed to shuttle a privileged few into space, one could shuttle millions of people around our cities. Both shuttle systems cost the same, both shuttle systems would require the valuable skills of the engineer, but only one shuttle system would seem to appreciably raise the value of human life.

I do not feel NASA should fold or dissolve. I believe it can continue its valuable work in space science and applications in a predominantly unmanned mode.

I do think there is a desperate need for establishing centers for assessment of new technologies, like the space shuttle, free from the controls and vested interests of the Government agencies involved. It is currently impossible to debate the technical details of new programs like the space shuttle from an adversary point of view. Nevertheless, I believe you have done an excellent job of raising significant issues about the shuttle and commend you for your work.

Sincerely,

Brian O'Leary.

AMENDMENT NO. 233

On page 11, line 2, insert the following: 1. Strike "$672,775,000" and insert in lieu thereof "$555,175,000".

On page 11, beginning with line 24, strike out through page 12, line 10.

At the end of the bill, add the following new section:

SEC. 9. None of the funds authorized to be appropriated under this Act shall be available for design and development of the space shuttle, for space shuttle facilities, and for studies and design of the space station.

ADDITIONAL COSPONSOR OF AMENDMENTS

AMENDMENTS 218 THROUGH 223

At the request of Mr. JAVITS, the Senator from California (Mr. TUNNEY) was added as a cosponsor of amendments 218 through 223 dealing with the recycling of waste materials.

ADDITIONAL STATEMENTS

U.S. MILITARY GOODS SENT TO PAKISTAN DESPITE BAN

Mr. SYMINGTON. Mr. President, the article entitled, "U.S. Military Goods Sent to Pakistan Despite Ban," written by Tad Szulc, and published in the New York Times of June 22, presents at the least an incomprehensible picture of insensitivity and bureaucratic inefficiency.

It is also once again a story of the executive branch telling the Congress and the people that it is doing one thing, then we find that something quite different occurred.

Mr. Szulc reports in the New York Times that State Department officials confirm that at least one ship is on its way to Pakistan carrying military equipment while another is preparing to sail with a cargo of aircraft, parachutes, and spare parts for planes and military vehicles.

These shipments are being made despite the State Department statement, reproduced in the committee report on Senate Resolution 21, that no U.S. arms—

Have been provided to the Pakistan Government or its agents since the outbreak of fighting in East Pakistan, March 25–26, and that nothing is now scheduled for such delivery.

In addition, the fact that these shipments have gone forward indicates that the State Department either did not know what was going on, or else misled Congress when Assistant Secretary Abshire, writing to the chairman of the Foreign Relations Committee on April 23, said with regard to military shipments to Pakistan that—

. . . Nothing is in the pipeline. . . .

According to Mr. Szulc, even State Department officials now acknowledge that these shipments constitute a violation of the proclaimed policy, but they offer no explanation for the contradiction between the policy and the facts.

As chairman of the Near Eastern and South Asian Affairs Subcommittee of the Committee on Foreign Relations, I requested yesterday by telephone a full explanation from the Secretaries of State and Defense; and will report to the Senate when these explanations are received. Pending their receipts, let us reserve final judgment; but it would appear that we should begin to give thought to steps which might be taken by Congress by means of law, rather than by the passage of resolutions, so as to insure that the executive branch's stated policy is carried out.

I ask unanimous consent that Mr. Szulc's article be printed in the RECORD.

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

U.S. MILITARY GOODS SENT TO PAKISTAN DESPITE BAN

(By Tad Szulc)

WASHINGTON.—A freighter flying the flag of Pakistan was preparing today to sail from New York for Karachi with a cargo of United States military equipment for Pakistan, apparently in violation of the Administration's officially proclaimed ban on such shipments.

Senior State Department officials, in response to inquiries, acknowledged that at least one other ship was now on the way from the United States to Pakistan carrying what they described as "foreign military sales" items.

These items, they indicated, came from Defense Department excess stocks and apparently were shipped as a result of confusion within the Administration as to how the three-month-old ban on shipments of military equipment to Pakistan should be applied.

"There has evidently been some kind of slippage here," an official said.

TO KARACHI IN AUGUST

The Padma, the ship that was preparing to sail from New York, is scheduled to arrive in Karachi in mid-August with eight aircraft, parachutes and a cargo that is said to include hundreds of thousands of pounds of spare parts and accessories for planes and military vehicles.

The Sunderbans, another ship of Pakistani registry, sailed from New York on May 8 with other items of military equipment for Pakistan, including parts for armed personnel carriers, according to the ship's manifesto and the accompanying State Department export license. She is due in Karachi Wednesday.

All this equipment has been sold to Pakistan by the United States Air Force under provisions of the Foreign Military Sales Act.

After troops of the Pakistani Army, mainly West Pakistanis, were ordered to crush the self-rule movement in East Pakistan last March 25, the State Department announced that all sales of military equipment to Pakistan had been suspended and that the program, initiated in 1967, had been placed "under review."

Today, State Department officials, responding to queries about the sailings of the Padma and the Sunderbans, said that it remained the official policy of the Administration that sales of all types of military equipment to Pakistan were banned.

These officials explained that the ban was imposed shortly after the severe repression of the East Pakistani independence movement began in March. The State Department estimates that at least 200,000 East Pakistanis have died in the subsequent fighting and that about six million refugees have fled to India.

Senior State Department officials said in interviews today that they were not aware of shipments of military equipment to Pakistan after March 25.

They acknowledged that such shipments would constitute a violation of the proclaimed policy.

The State Department officials said they had been informed by the Defense Department that no military equipment under the foreign sales program had been delivered "to the Government of Pakistan or agents of the Government of Pakistan" since March 25.

NO EXPLANATION OFFERED

They said the Defense Department "reaffirmed" this policy today in discussions with the State Department. They could not explain how this Pentagon statement could be reconciled with the fact that, according to the bills of lading submitted to the Pakistani Embassy here, the equipment to be loaded on the Sunderbans was received at the dock in New York on April 23 and the equipment for the Padma on May 21.

A communication from the shippers to Lieut. Col. M. Amram Raja at the defense procurement division of the Pakistani Embassy covering the dock receipts for the two ships was sent on May 21.

The Defense Department asked about the shipments last Saturday and again today, referred all inquiries to the State Department. Officials appeared to be at a loss to explain the shipments in the light of the official ban.

State Department sources quoted the Defense Department as saying that no sales or deliveries to Pakistan had been authorized since March 25 and that the equipment aboard the two freighters had been purchased prior to the official prohibition.

But they offered no comment as to why the dockside deliveries and actual shipments had been made after March 25.

The State Department has not yet replied to a letter sent on June 17 by Senator Frank Church, Democrat of Idaho, to Secretary of State William P. Rogers requesting information about "certain items of military equipment" being shipped to Pakistan under State Department licenses.

Senator Church, who is a member of the Senate Foreign Relations Committee, advised Mr. Rogers that he understood that the State Department had issued License No. 19242 for some of this equipment.

A check of the bills of lading of the cargo aboard the Sunderbans showed that this license covered an item described as "28 skids, parts," weighing 11,895 pounds. No further description of these items was available.

But another license issued by the State Department for the Sunderbans' cargo specified "parts and accessories for military vehicles." The Sunderbans carries a total of 21 items, according to the dockside delivery listings, identified on these documents only as cases and cartons of "auto parts and accessories," "skids and parts," "boxes" and "parts."

PLANES AND PARACHUTES LISTED

The dockside delivery listings for the Padma include two entries of "four aircraft" each, 113 parachutes and parts, and auto parts, accessories, skids and "wooden boxes."

An item described as "crates, bundles and parts" is listed as weighing 14,133 pounds.

The program of military sales to Pakistan, begun in 1967, had been running at nearly $10-million a year, according to Robert J. McCloskey, the State Department spokesman. The United States agreed in that year to sell "nonlethal" equipment to both Pakistan and India, lifting in part the embargo placed on military deliveries after the 1965 Indian-Pakistani war.

In October, 1970, the Administration agreed, as an "exception," to sell Pakistan an undisclosed number of F–104 fighter planes, B–57 bombers, and armored personnel car-

riers. However, the State Department said today that none of this "exception" equipment had been delivered.

But authoritative sources here, who cannot be identified, said that the flow of military equipment to Pakistan from Air Force sales alone had reached $47,944,781 between 1967 and April 30, 1970.

A communication sent on May 28 to the defense procurement division of the Pakistani Embassy in Washington by the headquarters of the Air Force accounting and finance center in Denver enclosed a "status report . . . listing all your open foreign military sales cases, showing case value, amounts collected, delivered and undelivered."

The letter—signed by Elaine B. Loventhal, chief foreign military sales branch comptroller at the Denver headquarters—was headed: "USAF statement of military sales transactions and detail delivery listings."

The "status report" noted that previous charges on Pakistani military purchases were $25,679,654.10, that undelivered items totaled $21,730,740.07 and that "cash received to date" was $24,342,782.37.

State Department officials were unable to say precisely what period this report covered.

The Air Force report said, however, that the Pakistani Government had to remit "on or before 31 May, 1971" the sum of $3,376,253.51 for further "total cash requirements."

A notation on the report showed that a check from Pakistan for $404,116.49 had been received "in May, 1971."

Authoritative sources here said that 'in all likelihood" additional sales to Pakistan might have been made by the Army and the Navy.

Spokesmen for the East West Shipping Agency, the New York agents for the Padma and the Sunderbans, indicated that the Padma had carried military equipment to Pakistan on a number of recent voyages, most recently delivering it in Karachi on March 22, three days before the troop action in East Pakistan.

The voyage for which the Padma is now preparing is her first to Karachi carrying military equipment since the ban was imposed after March 25. The current trip by the Sunderbans is also her first since the ban. But authoritative sources said that other ships with military equipment for Pakistan might have sailed since March 25 from East and West Coast ports.

ANTI-AMERICANISM

Mr. ALLEN. Mr. President, it is always a privilege for me to present in the Senate various viewpoints and opinions from Alabama. In fact, when I ran for office I promised to do just that. In the process of carrying out that promise, my conviction has been confirmed that most Alabamians hold much the same views on most national issues as other sound, responsible, conservative citizens throughout the Nation. For example, I recently received a letter from Mr. V. N. Randolph of Birmingham, Ala., which I believe expresses the sentiments of a vast majority of Alabamians. Mr. Randolph enclosed a copy of an editorial originally printed in the Indianapolis Star, which had subsequently been reprinted in the Birmingham News of June 13, 1971.

Mr. President, I believe that both the letter and the editorial accurately reflect the sincere convictions of the vast majority of readers of the Indianapolis Star and the Birmingham News. I believe that both the letter and the editorial are deserving of the thoughtful consideration of Senators and the public in general. For this reason I ask unanimous consent that the letter and the editorial be printed in the RECORD.

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

JUNE 21, 1971.

Hon. JAMES B. ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: On Sunday, June 13, the Birmingham News reprinted an editorial originally published in the Indianapolis Star on May 23, 1971. The sentiments expressed in the editorial are so similar to those felt by the writer (and I am sure a lot of other people too) that I am taking the liberty of imposing on your already busy schedule to send you a copy of the editorial along with this letter. Possibly this has already been brought to your attention, but if not, I sincerely hope that you will take the time to read it. Also, if it has not already taken place, I hope that some member of Congress will take time to have it inserted in the Congressional Record.

Another exposure, which I think this editorial reserves, would be for some of the network T.V. and radio newscasters to read these words to the listening public some evening instead of perhaps ruining our dinner by showing pictures of rioters and protesters breaking numbers of laws with apparent impunity. I hope they will find time to do this since they so often seem to find plenty of time for negative comments concerning our country. Honestly, I cannot remember a national network T.V. news program on which there was any appreciable time devoted to boasting about our great country and what it has done, not only for its own people but for a lot of the rest of the world, especially since the Marshall Plan was instituted. How many of these countries and people have shown due appreciation? Also, I believe that there have been too few such complimentary statements emanating from our Congress. I realize it is often much easier to criticize and be "anti" than it is to boast of our blessings and achievements. We should hear more such positive statements from Congress, as history will show that never since time began has a country taken better care of its ruling body than this country. It seems to me the members of Congress should be more grateful and willing to be sure that the world knows of their appreciation.

If you have stayed with me thus far, you no doubt believe these words have originated with a "Law and Order" Southerner. You are absolutely correct, and I am proud to earn such a description.

If your busy schedule permits time for a reply, your comments will be most appreciated.

Sincerely,

V. M. RANDOLPH.

STOP IT, ANTI-AMERICANS!

(An editorial reprinted from the Indianapolis Star, May 23, 1971)

Stop it, you anti-Americans! Stop criticizing everything and everybody and every motive and every action except your own. Stop constantly sniping at your government. What in the world is the matter with you? You have the most wonderful nation on earth, a nation that has gone to extraordinary lengths to uplift the poor, feed the hungry, comfort the afflicted, and extend justice to everyone. Yet here you are, applauding the very people who degrade and mock America, who tell you how selfish and corrupt Americans are.

Your own eyes and your own common sense should tell you that in no other land, under no other system, is the individual more respected or better treated. Nowhere is a person as free to do what he wants with his life. Nowhere in the world, despite our occasional overemphasis on getting and spending, are charity and service to mankind more practiced or revered than right here in America.

For the past couple of years you have allowed a small handful of hypocritical critics to flagellate us and our government.

Be realistic, America. Where is your sense of proportion? We aren't a debased or rotten nation. We have our share of criminal misfits, but most of us are pretty decent people—hard-working, law-abiding, God-fearing. All of us want a better life for ourselves and our children, and most of us want a better life for our neighbors too.

But this anti-Americanism is corrupting our national soul. It's having a harmful effect on your children, who are beginning to believe it. This false picture is making it easier for the haters, the doomsayers and the malcontents, those with the biggest mouths and the smallest consciences, to mislead and confuse us. It is twisting our values, making it difficult for our children to know right from wrong.

Thousands of American boys have been killed in Vietnam by being trapped in Viet Cong villages where men, women and children were paraded as villagers, when actually they were armed with Viet Cong cocktails, bombs and what have you. Our boys were trying to be decent to the villagers and suddenly they found themselves completely surrounded by the whole village, armed to the teeth. But the poor bleeding hearts in America, these anti-American so-called patriots, instead of having any sympathy for our boys, who of course had to fight back, felt sorry for the old men and children who got hurt in the mix-up. Of course they would get hurt in that kind of a mess. We had a lot of boys killed in that action. The anti-Americans had no sympathy for our boys, but they had all kinds of sympathy for the poor villagers who were simply used, innocently or otherwise, by the Viet Cong. This is war, make no mistake about it, but these anti-American loudmouths seem to believe we have no right to wage it in our own defense.

One United States senator actually made a statement that the American prisoners of war in Hanoi might as well just stay there, because they certainly wouldn't have been prisoners of war if they had had enough sense not to enlist for a useless, and barbaric war. Well, the facts are they didn't enlist—they were drafted. And many of the very same men who voted to support President Kennedy when he went into Vietnam and who supported the Tonkin Resolution, later, when the war became unpopular, turned about face and blamed the whole thing on President Johnson. And now they are blaming the war on President Nixon, who didn't have a single thing to do with starting this war. But the very men who are loudest in their criticism of President Nixon and the present situation in Vietnam, which is gradually being solved are the very ones who really helped start the whole mess. This is the worst display of national hypocrisy we have ever witnessed in this country.

It is unbelievable that so small a minority of Americans could create such a terrible atmosphere in this country. If it were not for the loudmouths the world would not know anything about what is going on here, because it is so much more peaceful here, and safer, than anyplace else in the world. But to hear these bleeding hearts yell, you would think Russia is a Utopia compared to America.

Stop this anti-American rot. Because if you don't, America's youth will be consumed by the stench of this hypocritical rhetoric.

Stop it, America, before it is too late!

GOVERNMENT GUARANTEED BANK LOANS TO LOCKHEED AIRCRAFT CORP.

Mr. YOUNG. Mr. President, I wish to make a statement regarding S. 1891. This is the bill that would authorize the Secretary of the Treasury to guarantee bank loans to Lockheed Aircraft Corp.

The Committee on Banking, Housing, and Urban Affairs has been holding hearings with respect to the bill for the past 2 weeks, and these hearings are now essentially completed.

First, I would like to congratulate the chairman of the committee, the senior Senator from Alabama (Mr. SPARKMAN), for the outstanding manner in which he has conducted these hearings. He has made certain that every issue involved in the bill has received the most thorough study and evaluation.

He has also arranged expert testimony for this committee, calling upon those Government and business leaders who are the most qualified to inform the Senate about the complex circumstances that surround this legislation. The hearings have been both comprehensive and fair.

I shall comment on only two aspects of the hearings. One could be described as an unfortunate omission; the other could be described as an inescapable conclusion.

The unfortunate omission, in my opinion, is the lack of testimony with respect to Lockheed's many achievements over the years. Of course, it is the corporation's current problems that caused S. 1891 to be introduced. So, naturally, the hearings dealt almost entirely with these problems.

But the charges of mismanagement that one reads about in the proceedings—charges that also received generous publicity in the news media—do not present a true picture of Lockheed's management. Chairman Daniel J. Haughton and president A. Carl Kotchian and their team of managers, scientists, engineers, and administrators have proved themselves time and time again on some of the most challenging defense programs ever attempted by this or any other nation in the world.

Mr. President, I shall not take the time to review these many remarkable accomplishments here today. But I do want to go on record as declaring my firm belief and confidence in the management of this corporation. We know that this team is not perfect—Mr. Haughton admitted as much in this testimony—but if we compare Lockheed's past successes with its present problems, the score is overwhelmingly in favor of its management.

Now, the inescapable conclusion that emerges from these hearings is the need for the Senate to act quickly and affirmatively regarding S. 1891. The testimony reveals that this legislation is clearly in the national interest. Our failure to pass this bill—and pass it without unnecessary delay could create serious harm to our national economy and to our acquisition of future defense systems.

The economic stakes alone provide sufficient reason for our affirmative action. Over 60,000 jobs are now hanging in the balance, directly or indirectly, and Congress will either save these jobs or eliminate them. I cannot vote for a layoff of 60,000 American workers.

Also at stake—and the hearings made this perfectly clear—is the huge investment made by the participants of the L–1011 program. Here we have $1.4 billion—put up by subcontractors, airlines, and banks, as well as by Lockheed—with only a fraction that could be salvaged if this program has to be abandoned.

Added to this, of course, would be the loss to the Government resulting from reduced income taxes and increased costs of welfare and unemployment compensation. The price the Nation would pay if we fail to pass S. 1891 is more than our economy can afford. To punish Lockheed for its current problems—some of which were patently beyond its own control—would be an extravagant example of mismanagement of our national affairs.

It would also inflict great harm on our national defense. This corporation, that now teeters on the brink of bankruptcy, is not an ordinary business enterprise. Lockheed is a national resource. Its service to the Nation has been second to none, and its successful management of vital defense programs has made it the leading defense contractor in the country.

Without a Government guarantee, Lockheed will not be able to meet its existing obligations on the L–1011. This commercial program will have to be abandoned, and the corporation will then be forced into bankruptcy. The effects on Lockheed's defense programs can only be bad. Bankruptcy would certainly create delays and confusion on Lockheed's present military work. It would probably lead to increased costs to the Government and major dislocations throughout the defense industry.

It could also block Lockheed's talented people and modern facilities from participating in future programs for the Department of Defense. Remember, these are the same people and facilities that turned out the U–2 reconnaissance plane, the Polaris missile, the Agena spacecraft—plus many other aircraft and weapon systems that have figured so prominently in our national security.

To say that free enterprise includes the freedom to fail is good theory in an economics textbook, but it is shortsighted and even reckless in this particular case. Rather than allow its present circumstances to destroy our leading defense contractor, we should make it possible—at little risk to the taxpayer—for this corporation to succeed in its courageous effort to balance its defense work with a commercial program of great potential value to our economy.

The most compelling argument against S. 1891 has been the well-founded concern many have expressed over setting a precedent for future guarantees of this type. This issue came immediately to my mind when the subject of a possible loan guarantee for Lockheed first appeared.

During the hearings this matter was thoroughly examined. We have been reminded of the many past and present examples of Federal guarantees and insured loans. What these guaranteed and insured loans all had in common was the conviction of the Congress that they served the public interest. I am completely satisfied in my own mind that S. 1891 meets or surpasses any criteria that have been used in the past to determine what is in the best interest of the public.

Mr. President, passing this bill will not set a precedent. The precedent, in many forms, already exists. For this reason, and those I mentioned earlier, I have reached the inescapable conclusion that prompt and affirmative action is the only course the Senate can take with respect to this bill.

I urge Senators to give S. 1891 the serious and expeditious attention it deserves, on its merits, and express the hope that they too will support this measure.

ARMS SHIPMENTS TO PAKISTAN

Mr. BAYH. Mr. President, according to newspaper accounts the shipment of military supplies to the Government of Pakistan has continued, in seeming violation of our Government's expressed policies. Two days ago, the Department of State reiterated that it remains the policy of the administration to suspend the sale of all types of military equipment to Pakistan. Yesterday, State Department officials contended that they were aware of the shipments being made from the port of New York, but that the suspension did not apply to those items since they were purchased before the suspension was announced.

Perhaps this is another instance of the right hand not knowing what the left hand is doing. The State Department in a letter dated April 23, 1971, to the Foreign Relations Committee stated that—

> No military items have been provided to the government of Pakistan or its agents since the outbreak of fighting in East Pakistan March 25 and nothing is now scheduled for such delivery.

Secretary of Defense Laird was quoted yesterday as saying that "much of the information" in the New York Times was "false." Yet the bill of lading is available for all to see. Still, Mr. Laird has not told us what is really happening; the State Department has not told us what is really happening; and the Air Force, reportedly responsible for much of the sales under the Foreign Military Sales Act, has not told us what is really happening.

What distresses me deeply, Mr. President, is the ambiguity of our present policies in allowing such shipments, whether through design or incompetence, when State Department officials admit that we have no control over the movement of that material once it reaches Pakistan, and when our Government's announced policy is to ship no arms and to counsel "restraint" on both sides. These shipments do raise a serious question: Does the administration really have any concerted policy regarding Pakistan?

It seems obvious that we must assume that all military aid, lethal and nonlethal, received by either side will be used in the fighting. Furthermore, it is naive to assume that mere counsels of

restraint will have much affect on the actions of either side.

Consequently, we must have an absolute and effective suspension of all shipments of military supplies to Pakistan. We must intensify our relief efforts and insure that relief supplies reach the victims for whom they are intended. Furthermore, the influence of our economic assistance should be applied to encourage genuine reconciliation. U.S. interests could be affected if the explosive refugee situation were allowed to ignite and threaten the stability of the whole Indian subcontinent.

But beyond consideration of foreign policy, this episode raises again the question of the credibility of our Government's word. Coming as it does in the midst of the "Pentagon Papers" controversy, it reinforces the concern which many of us have about our leaders—Republicans or Democrats—being candid with the American people. Each time an administration appears to mislead or deceive the public, it erodes the trust and confidence on which our system of representative government depends.

MINE SAFETY

Mr. DOMINICK. Mr. President, two recent articles in the Washington Star addressed the matter of mine safety laws from diverse points of view, but both illustrate the problems associated with attempts to legislate safety and the unfortunate effects this procedure can have. A column by Richard Wilson discusses the unworkable legislation now on the books and its staggering cost to the consumer and the producers. Mr. Wilson's conclusion is that only effective and dedicated cooperation between the operators and the Government will bring progress in establishing safer mines.

The second article, an Associated Press story, is a human interest account of Mr. and Mrs. Irvin Smith, of Hesperus, Colo., and the years they spent making their living from their own small mining operations. This story points up the personal hardship which present legislation has brought to the Smiths and it illustrates the deleterious effects caused by applying the same standards to both large mines and the small operations such as the one owned by the Smiths. It shows the need for a balance between strict safety standards and the individual considerations present in small mining operations. I have stated on numerous occasions that we cannot simply pass legislation to guarantee mine safety, and I have addressed the matter of the economic effects of such unworkable legislation on the people who make their living operating the mines. These articles reinforce those views and are worthy of the attention of Senators. Mr. President, I ask unanimous consent that the articles entitled "Legislating Job Safety Just Doesn't Work" and "Mine and Minds of Their Own" be printed in the RECORD.

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

MINE AND MINDS OF THEIR OWN

(By Ken Hoskins)

HESPERUS, COLO.—Irvin and Violet Smith courted in a mine. They reared five children in a mine.

Nearly 50 years later, the spry pick-and-shovel team still is taking tons of coal from a 1,000-foot shaft here in Hay Gulch. But federal mine regulations soon may end their lifelong love affair with the dark world underground.

"Six days is all I ever knew him and we got married," said Mrs. Smith, whose dark brown hair and firm grip hide her 65 years. "But before we were married, I went with him 3,300 feet underground in an Arizona mine.

"I liked it," she said. "It just fascinated me."

Over the next few years the Smiths moved from Arizona to Colorado to New Mexico and back to Colorado, traveling from mine to mine.

"One thing we never did," she said, "was leave our children." So, when the babies began arriving, they too went into the mines.

"We'd take the children and go into the mine at night and work until we were played out," she said. "We had our kids bedded down in a coal car."

When the Smiths came here to Hay Gulch 36 years ago, coal mining for them still was just a husband-wife venture. But now, most of the mining is mechanized and four hired men work the face of the mine.

Time also has brought tighter federal control of the industry, including new regulations under the Coal Mine Health and Safety Act of 1969. They include requirements for gas and dust monitoring equipment and new facilities, such as a toilet down in the mine.

The Smiths view the changes as a government attempt to drive out the little man and they've reacted strongly.

"I run me an inspector off this morning," she said. "I said, 'Get your goddamned self out of here.'"

The inspector, from the federal Bureau of Mines, wasn't the first to be dispatched by the 6-foot, 180-pound female miner. In November, when one ordered the mine shut down, Mrs. Smith hauled him from his car and, as she put it, "give him a few."

The Smiths' major complaint has been that fines have been levied for failure to install equipment which they say they can't purchase.

"I've had my order in at two places for the methane gas monitor and I still can't get it," she said. "I have been in compliance with everything up to the point where you couldn't buy it. If you can't buy it, you still get fined."

Anthony Moschetti, district manager for the Bureau of Mines in Denver, confirmed that an inspector had been roughed up by Mrs. Smith and that the Smiths had been cited for not having various equipment.

"I would say now they're still not in conformity, but are cooperating," Moschetti said. "That's a hell of a lot better anyway."

Irvin Smith, 70 and a good 5 inches shorter than Mrs. Smith, makes it clear he has no intention of letting federal regulations and inspectors tie up his operation on his way of life. He noted that the four men who work the mine face would have to go on welfare if the mine closed.

"I could sit down on my duff and draw an old-age pension," he said, "but I ain't gonna do it. I'm goin' to stay right here and dig coal."

"I'd rather be down here than out there," said his wife, stooped over, looking up the shaft to a ray of sunlight at the entrance. "We do our work of our own good free will. It's good to work like this, you know."

LEGISLATING JOB SAFETY JUST DOESN'T WORK

(By Richard Wilson)

One of these days there will be another shocking coal mine disaster and then it will be realized that the Coal Mine Health and Safety Act of 1969 is not working.

This sad prospect is dealt with here somewhat out of the usual context of these columns because it is illustrative of so many other failures to correct evils by legislation. Another failure no doubt soon will be realized when new laws are passed and new agencies are created for curbing narcotics. In this case laws already are adequate. The U.S. would do better by resorting to the sternest kind of action forcing the French, Turkish and Asian governments to dry up the sources of illegal narcotics.

As for safety in the coal mines, fatalities in 1970 exceeded those in 1969 and deaths reported in the first two months of 1971 are higher than the corresponding months of 1969—before the passage of the safety act.

The operators fully realize that they are up against it on mine safety. The public and Congress won't stand many more disasters. The next step will be even stricter laws. After that, unless mining conditions improve, the perennial fear of nationalization of the coal mining industry might move a step nearer reality.

Who is responsible for the failure depends on who is talking. The Bureau of Mines of the Department of Interior has issued some 40,000 complaints of alleged violations of safety standards.

Bureaucratic skirts are thus likely to be kept clean in case of another disaster such as the tragedy at Farmington, W. Va., which took 78 lives, and led to the passage of the Coal Health and Safety Act.

Joseph E. Moody, president of the Bituminous Coal Mine Operators Association, blames the Bureau of Mines. The operators, he says, have been made the enemy and subjected to regulations that are unrealistic, impractical and self-defeating. The huge pileup of complaints and citations issued by the Bureau of Mines can't be processed and is creating such a chaotic situation that administration of the act could be brought to a standstill, Moody claims.

On the contrary, the General Accounting Office reporting the results of what seems to be an exhaustive study requested by Sen. Harrison Williams, found that enforcement of the act has been "extremely lenient, confusing, uncertain, and inequitable."

A case in point shedding credit on neither operators nor the Bureau of Mines was the tragedy during the 1970 Christmas holidays which took 38 lives in an underground coal mine near Wooten, Ky. The mine had been permitted to operate despite inspection a few weeks earlier revealing five alleged violations of the Health and Safety Act.

Mine safety is costing the public a great deal in dollars as well as sympathy. Moody claims producers and consumers of coal are paying out about $1 billion annually in added costs of $1.45 to $1.50 per ton of production for mine safety but are not getting safer mines.

For different reasons Williams has concluded that the act is not being effectively implemented and is talking about transferring its administration from the Department of Interior to the Department of Labor.

That seems to be a rather mild remedy under the circumstances. The Department of Labor already has its hands full getting ready to implement the Occupational Safety and Health Act of 1970 which spreads the government's responsibility for health and safe working conditions to all industry.

Under that act citations like those in the coal safety act can be issued to hold industry to higher standards. Coal industry fatalities

have been running around the 200 to 250 level annually. In the whole of industry, with which the Labor Department must deal, 12,500 lose their lives annually in work-related injuries and illnesses and 2,000,000 suffer non-fatal injuries and illnesses.

President Nixon took the initiative in both the improved Mine Safety Act and broader Occupational Safety and Health Act, hauling them as landmark contributions in making the technological age safe to work and live in. He placed it all in the context of the "national passion" for environmental improvement.

But if the General Occupational Safety Act works on better than the Mine Safety Act, Nixon's words will go down as over-inflated. What it comes down to in the end is that there can't be an adversary atmosphere between the enforcers and those who must conform to the law. The mine operators and factory managers aren's "the enemy." Their stake in safety and health is as high, if not higher, than the government's. Effective and dedicated cooperation is the only way that progress can be made.

HEW SCHOOL DESEGREGATION FIGURES

Mr. STENNIS. Mr. President, on Friday, June 18, the Department of Health, Education, and Welfare released the figures on their second national survey of racial and ethnic enrollment in public schools, comparing 1968–69 and 1970–71 school years. The figures were accompanied by a press release from HEW, commenting on the accomplishments in 2 years' time on the desegregation of schools.

The complete tabulations of the figures appear in the CONGRESSIONAL RECORD for June 18, 1971. I intend to comment on certain of the figures which I consider to be most meaningful.

The 11-State South more than doubled the percentage of Negro students in majority-white schools, from 18 percent in the fall of 1968 to 39 percent in the fall of 1970. The percentage increased fivefold in Mississippi. In the 32 northern and western States, the percentage remained unchanged at 28 percent.

There were 756,000 more Negro students in majority-white schools last year than there were in the fall of 1968. Of these, 690,000 were in the 11-State South. The HEW press release says that the other 66,000 "were in 38 other States." What it did not say is that the percentage of Negroes in majority-white schools decreased in a number of States, including Massachusetts, Michigan, Minnesota, New Jersey, New York, Ohio, and Pennsylvania. Nor did it say that in the entire 32 northern and western States there were 115,486 more Negro students in 80 to 100 percent minority schools, or that 90,169 of these were in 95 to 100 percent minority schools.

It must be remembered, also, Mr. President, that during the 2-year period, school populations did not, of course, remain static. All areas gained in Negro school enrollment, but some more than others, and this is pertinent to judging desegregation accomplishments.

While the South was making all the progress I referred to, and the Northern and Western States were standing still or retrogressing, what kind of increases in Negro student population did these areas have to deal with?

The answer is that the 32 Northern and Western States had 186,802 additional Negro students, but the 11 Southern States alone had an increase of 208,232 Negro students.

Of total enrollment in the South, 27.2 percent are Negroes. In the North and West, it is 9.8 percent. Obviously, it is more difficult to place Negroes in majority-white schools in those areas where the Negro percentage is high.

Mississippi is the only State where more than half the students are Negro—50.8 percent. Yet the percentage of Negro students in majority-white schools is 26.4 percent.

In Minnesota, only 1.1 percent of the students are Negro, but there was a decline in the percentage of them enrolled in majority-white schools. The same is true in Massachusetts, which has a Negro enrollment of only 4.5 percent.

The HEW press release indicates that in the 11-State South, the percentage of Negro enrollment in 80 to 100 percent minority schools was more than cut in half in 2 years. What it did not say is that in the 32 Northern and Western States, the percentage of Negro enrollment in these racially isolated schools increased, and so did it also increase in 90 to 100 percent minority schools, and 95 to 100 percent schools, and 99 to 100 percent schools. In every one of those categories there was a physical increase of tens of thousands of black students in these schools. So there had to be more schools. What kind of schools were built in the Northern and Western States to accommodate these large numbers of additional black students? Obviously, the answer is that they built a large number of schools for Negroes.

The HEW press release says that in the 100 largest school systems, the percentage of Negroes who attend majority-white schools increased from 13 percent in 1968 to 16 percent. This sounds impressive. It means that 128,947 black students were added to the rolls of majority-white schools.

A closer look, however, reveals that 37,006 of them were in the State of Florida alone. Another 16,346 were in one school district in North Carolina.

Of the 100 largest school districts, how many increased the percentage of Negroes attending majority-white schools? There were 59. However, 40 of them were in the South and border States. This leaves 19 districts in the Northern and Western States that increased this percentage.

The numbers of black students, however, in these 19 districts, that were added to majority-white schools, are insignificant. Los Angeles had 2,109. Newark added 446. Pittsburgh added 527. Toledo added 229; Dayton, 502. Gary, Ind., added 144. What of the 41 school districts that did not increase the percentage of blacks in majority-white schools? Obviously, they changed the other way, and the Southern and border schools had to make up the difference in order for HEW to make the proud statement in the press release.

Of the 15 largest school districts in the country, only one Northern or Western district increased the percentage. That was Los Angeles, and, as I mentioned, there were only 2,109 students involved there.

Twice that many black students were involved in a change in Detroit, but the change was in reverse. There were 5,000 fewer black students in majority-white schools. Percentages declined, also, in New York, Chicago, Philadelphia, Cleveland, and so on down the line.

In Boston, a startling degree of racial isolation took place in a period of 2 years. Negroes in majority-black schools increased 5.3 percent. Those in 90 to 100 percent-minority increased 9.7 percent. Those in 100-minority, all-black, schools increased 10.7 percent. The overall figures on those of the 100 largest school districts that are in the 32 Northern and Western States are revealing. The percentages of black students who are enrolled in majority-black schools have increased in every category: 50 to 100 percent, 80 to 100 percent, 90 to 100 percent, 99 to 100 percent, and even 100 percent Negro. In every category in the 11 Southern States, those same percentages decreased, showing accelerated desegregation.

Mr. President, these two national surveys, 2 years apart, demonstrate all too clearly the hypocritical attitude that is tolerated in our Nation in school desegregation matters. Racial segregation in northern and western schools grows by leaps and bounds, fostered by convenient, catchword, specious phrases such as "de facto" and "housing patterns." In the South, schools are broken up with brutal abandon, in search of racial balance, and in disregard of logic or reason.

On April 22 of this year, the Senate, I am proud to say, faced up to responsibility in this matter, and adopted an amendment, which I had offered, providing for a single national policy in dealing with conditions of segregation by race in schools. This amendment is a part of the emergency school aid bill, which awaits action in the House.

Mr. President, the publication of the school survey figures by HEW is very timely. It is my fervent hope that the Members of the other body will examine these figures carefully, and that the amendment will be approved in that body. Then, this country can finally turn toward workable, sensible guidelines for school desegregation—guidelines that can be used everywhere in the Nation. An opportunity is at hand to correct the greatest single hypocrisy of our day. I trust the opportunity will be seized and not lost.

H.R. 1 IS NOT WELFARE REFORM

Mr. CURTIS. Mr. President, important developments have taken place in the other body this week, relative to welfare reform, which I believe should be reviewed because they reflect a wide disenchantment with the reform proposal being offered in the form of H.R. 1 and because these very significant developments have been almost totally ignored by such influential and objective news media as the Washington Post and the New York Times.

What occurred is this. On June 15, a group of 16 House Members, led by

Congressman JOHN DUNCAN of Tennessee, a member of the House Committee on Ways and Means which reported H.R. 1, joined in introducing an alternative measure in the form of H.R. 9156. The bill, which returns the control of welfare programs to the individual States and incorporates the concept of revenue sharing as a means of relieving the financial burden under which welfare programs presently operate, is identical with my bill, S. 2037.

The sponsors of H.R. 9156 sought from the House Rules Committee an open rule on H.R. 1 which would permit them to offer their bill as an alternative to the welfare provisions—title IV—of the bill reported by the Ways and Means Committee, in which all current welfare programs are federalized and a new family assistance program is authorized, establishing a minimum guaranteed annual income for both the working and nonworking poor.

Unfortunately, though there was considerable misgiving over H.R. 1 on the part of members of the Rules Committee, including both the chairman and the ranking minority member, the sponsors of H.R. 9156 were unable to obtain an open rule. Though no rule had yet been granted when they made their plea, agreement had already been reached among Rules Committee members, Chairman MILLS of Ways and Means, and the House Democratic leadership, that the rule would be a modified closed one, permitting only a single amendment for the purpose of striking the welfare title from the bill.

Faced with no opportunity to offer their alternative under the rule, the sponsors of H.R. 9156 went to work seeking support for a vote against the previous question on the rule, a parliamentary maneuver which would permit modification of the rule so that amendments, including their substitute for title IV, might be offered.

With only 4 working days remaining before the rule was taken up for consideration, a coalition was formed which came within 28 votes—172 to 200—of defeating the previous question and opening the rule. That coalition, if pairs are included, consisted of exactly half the Republican Members of the House who, by their vote, indicated their displeasure with the welfare reform bill which had the blessing of the White House and strong backing of the House Republican leadership. The Democratic Members, likewise, were bucking their own leadership, not to mention two venerable committee chairmen, Representative WILBUR MILLS, of Ways and Means, and Representative WILLIAM COLMER, of Rules.

I find this development extremely significant and indicative of considerable dissatisfaction with H.R. 1's welfare reform proposals. This is especially so in view of the very short time opponents had to mount their campaign.

Yet it is startling to review the treatment given this effort by the supposedly "objective" press.

No word ever appeared in any of the Washington papers or in the New York Times regarding the introduction of H.R. 9156, though press releases covering its introduction were made available to the press.

More significantly, the Post on June 21, the day of the vote on the rule, carried a front page article on the dramatic increase in welfare cases under the present system and an editorial page article by HEW Secretary Richardson in which the Secretary said:

> Reasonable men can clearly disagree on specific provisions of this bill (H.R. 1), but I find it highly significant that no viable alternative to this reform has been suggested throughout all the months of discussion and debate . . .

I had introduced my bill nearly 2 weeks earlier and H.R. 9156 had been introduced nearly a week before the Secretary's article appeared. Though my bill received very little coverage in Washington it was extensively reported in other areas of the country. The proposal is definitely a viable alternative and if the Secretary was not aware of it he should have been. Further, other alternatives exist which I believe to be preferable to or improvements upon H.R. 1 of which the Secretary could not help but have been aware.

On the day following the vote on the rule the Post did carry in its early editions a brief article recapping the House action, but this was inexplicably dropped from its most widely read "final edition." Its lead editorial, however, urged passage of H.R. 1, with no mention of any opposition, and made this further very informative comment:

> Tempting as it is for those who wish to see H.R. 1 passed (as we do) to suggest that it will . . . substantially reduce the number of persons receiving welfare, such a suggestion would in fact be misleading.

The editorial goes blithely on to endorse H.R. 1 in spite of that admission; indeed, almost it seems because of it. It is, nevertheless, the first time, to my knowledge, that that fact has been admitted by anyone but the bill's opponents. The bill's other advocates, in incorporating what the Post calls that "unhappy statistic" into their argument, have consistently insisted that any increase in caseload would be only temporary.

The Post has now admitted what commonsense tells anyone—that once we double the number of people on the welfare rolls, the welfare caseloads will never again return to the present level, let alone fall below it. This is one of the primary reasons I felt it necessary to introduce S. 2037, which contains the means for providing realistic and meaningful assistance to the truly needy without artificially inflated welfare rolls inherent in H.R. 1.

The New York Times likewise behaved in its reporting on June 22 as though no vote related to welfare reform had occurred in the House. Not a word did they breathe of the close procedural vote that almost permitted an effort to open the rule and offer an alternative. But they betrayed themselves on their editorial page by waxing eloquent in their hope that unhappy black and liberal Congressman, wanting more than H.R. 1 offers, would not scuttle the welfare title in Tuesday's vote by joining with " 'reactionaries' opposed to any improvements."

The Times' forboding about a liberal—reactionary coalition bespoke both knowledge of and a deep concern about the House vote which they did not deign to report to their readers as news. And their plea to the liberals not to slam the door on hope and change by being party to such a stultifying result betrays their editorial bias by its tacit recognition that the Times only influence is over liberals.

At the completion of debate on H.R. 1 on Tuesday, the motion was offered to strike the welfare title and was defeated on a teller vote by the comparatively slim margin of 234 to 187. This is further indication of the substantial sentiment in the House that H.R. 1 is an unsatisfactory solution to the welfare reform problem.

It is my sincere hope that we in the Senate will provide every opportunity for full and open discussion of alternatives to title IV of H.R. 1. In areas of the country where my bill has been reported upon and discussed, I have received very favorable response from the American taxpayer and from public officials.

I believe if it is given careful consideration it will appear as not only a viable alternative but the preferable alternative to the program outlined in H.R. 1 which threatens the basic fabric of our whole federal system of government. I urge every Senator to study this alternative before hearings begin on H.R. 1.

U.S. NEUTRALITY IN VIETNAM ELECTIONS

Mr. STEVENSON. Mr. President, on Tuesday night the Senate defeated an amendment to declare U.S. neutrality in the forthcoming South Vietnam elections and that, our purpose being self-determination, the United States would not support any government of South Vietnam which acquired, or retained, power through corrupt or coercive means.

Almost immediately after the Senate defeated this amendment, President Thieu, signed into law a bill designed to exclude other presidential candidates from the ballot in the forthcoming elections.

It is reported in the Washington Post this morning that—

> A number of American diplomats who several months ago spoke optimistically of Thieu's intention to carry off the election with a minimum of political hanky panky are now taking a markedly gloomier line.

I ask unanimous consent that the Washington Post article be printed at this point in the RECORD.

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

THIEU SIGNS CONTROVERSIAL ELECTION BILL WITHOUT CHANGE

(By Peter Osnos)

SAIGON, June 23.—President Thieu today signed into law the comprehensive election bill setting out the procedures to be followed in the upcoming presidential campaign and balloting.

Thieu delayed signing the measure until almost the last possible moment, prompting

speculation that he might amend the controversial provision requiring candidates to get the endorsements of 40 national assemblymen or 100 provincial councilors.

But Thieu signed the bill intact. The move was announced on the government radio's 10 p.m. news broadcast. The measure would have gone into effect automatically at midnight.

The requirement for legislation endorsements has been criticized here and abroad both for the heavy-handed way Thieu maneuvered for its passage and the fact that it is clearly designed to limit Thieu's opposition next October.

UNITED STATES VIEW

American diplomats, despite their avowed policy of noninvolvement in the election, have stressed privately to Thieu the great importance attached by U.S. public opinion to a legitimate campaign.

Fearful that Thieu could end up in a one-man race, American officials right up to Ambassador Ellsworth C. Bunker have met in recent weeks with Vice President Nguyen Cao Ky and Gen. Duong Van (Big) Minh to encourage them to run, informed sources said.

Thieu is a very heavy favorite to be reelected. However, with Ky in the race, Minh's chances are thought to be better than they would be if he faced the president by himself.

The principal concern of the Americans has been that Ky would be kept off the ballot by the endorsement provision and Minh would then drop out also charging that Thieu is rigging the election.

Immediately after the election bill was passed by the National Assembly June 3, Ky's chances of getting the necessary signatures were thought to be small. But the vice president may have outflanked Thieu by creating an alliance with Minh to assure that neither would be squeezed out of the race.

MINH'S BACKERS

Under the agreement, sources said, Minh will get his backers from the National Assembly and will help Ky concentrate on the councilors. The vice president's campaign manager, Le Van Thai said today that Ky already has pledges from 100 provincial legislators.

Informed Vietnamese observers regarded Thai's assertion with skepticism and noted that in any event, the pledges must still be turned into "legalized" signatures.

Whether Ky will eventually get the backers he needs is still not clear, although his chances now are thought to be better than they were three weeks ago. Minh is confident of finding sufficient support in the National Assembly and, sources said, he assured Bunker that he will make the race.

As for Thieu, there are reliable reports circulating in Vietnamese political circles that the president, acting through his province chiefs, is exerting strong pressure on local councilors to line up solidly behind him.

One progovernment source said Thieu has so far signed up 400 of the country's 550 provincial legislators.

In Giadinh province, just outside Saigon, where the pressure has been so blatant that even seasoned Americans were startled, 20 of 27 councilors have already declared for Thieu, sources there said.

The president's influence over the councilors is substantially enhanced—and that of Ky diminished—by the fact that Thieu's province chiefs can recommend dismissal of any of the provincial legislators.

PROVINCE CHIEFS

By bearing down on his province chiefs and at the same time deciding not to make the election measure less restrictive, Thieu is believed demonstrating anew his determination to run the election his own way, regardless of what it might cost him in international prestige.

A number of American diplomats who several months ago spoke optimistically of Thieu's intention to carry off the election with a minimum of political hanky-panky, are now taking a markedly gloomier line.

"I'm not convinced anymore that it's going to be honest," said one official, "but there aren't enough signs yet to say that it's going to be dishonest either."

Some of the other provisions of the election law are these:

Applications for candidacy must be submitted before Aug. 3 and the candidate must deposit $7,500 with the national treasury for campaign expenditures.

Anyone deemed Communist or a "pro-Communist neutralist" by the Supreme Court is prohibited from running.

The election will be held Oct. 3 and any Vietnamese citizen 18 or over can vote, provided he places his name on the voting list and has a voters card.

Mr. STEVENSON. Mr. President, the danger grows that 10 years of war will be climaxed by a crooked election. The danger grows that after sacrificing 50,000 young American lives and $120 billion for self-determination the United States will be perceived as picking the successful presidential candidate, instead of the South Vietnamese people. Still hope the Congress will, in some form, declare U.S. neutrality in the South Vietnamese elections, take steps to prevent election irregularities and to keep itself well informed about the U.S. role in the election campaign. I will seek another chance to bring this matter to the Senate floor before it is too late.

DANGEROUS WISHFUL THINKING ABOUT A WITHDRAWAL DATE AND PRISONERS OF WAR

Mr. DOLE. Mr. President, recently there has emerged from the Senate and some other quarters a line of reasoning, or perhaps unreasoning, which holds that a publicly proclaimed date for the withdrawal of American forces is the way to the release of our prisoners of war and the honorable resolution of the Vietnam conflict.

The 11 versions of the so-called end-the-war amendment were the most highly publicized vehicles for this spurious line of wishful thinking which completely ignores the duplicity and inhumane attitude of the North Vietnamese government in regard to U.S. prisoners of war and men who are missing in action.

Today's Evans and Novak column in the Washington Post thoroughly refutes the naive and dangerous belief that a unilaterally declared withdrawal date would contribute in a meaningful way to either securing the release of our prisoners or resolving the Indochina conflict.

I believe that every Senator who is concerned with the fate of our missing and captive men would find this article worthwhile. I ask unanimous consent it be printed in the RECORD.

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

HANOI DOUBLETALK ON POW'S

(By Rowland Evans and Robert Novak)

The skill and audacity with which the Vietnamese Communists manipulate American public opinion on the emotion-charged prisoner-of-war issue is illustrated by a diplomatic cable transmitted back to Hanoi June 11 by the North Vietnamese negotiating team in Paris.

That cable contained the official Communist transcript of an interview in Paris three days earlier between Xuan Thuy, chief North Vietnamese negotiator, and Chalmers M. Roberts of The Washington Post. The transcript quoted Xuan Thuy as saying that "if the United States sets a reasonable deadline for the complete withdrawal of troops, we could *discuss* the settlement of the prisoner of war question"—precisely the Hanoi line.

In truth, however, that is not what the Communist negotiator said at all. Roberts, a respected diplomatic correspondent, reported Xuan Thuy as telling him, "if a reasonable date is set, the question of prisoners may be settled." In response to another question, he amended that to "*will* be settled."

The discrepancy reveals the POW game played by the Hanoi Politburo. The soft line actually given in the interview with Roberts is intended to convince Americans that the POWs will come home just as soon as President Nixon sets a troop withdrawal deadline. The altered transcript cabled to Hanoi reiterated the hard line that is the Vietnamese reality: Hanoi promises nothing whatever in return for a troop withdrawal deadline.

The audacious game has worked, feeding demands in the United States for quick withdrawal. Two antiwar Democrats Sen. Vance Hartke of Indiana and Rep. Robert Leggett of California, returned from talks with the Communists in Paris indicating that the Americans were to blame for the negotiations deadlock. Clark Clifford, former Secretary of Defense, has predicted release of the prisoners 30 days after agreement to withdraw. In a climate further soured by the Pentagon papers, many Americans believe the worst of their own country's leaders while exercising complete gullibility about Communist promises.

When not talking to American politicians and journalists, the Communists revert in formal Paris sessions to the hard line of their official statements. Based on those statements, there is every reason to believe that the Communists plan to use the POWs as hostages to steadily up the ante in fulfilling all goals in Vietnam.

The basic position is point one of the South Vietnamese Communist eight-point "elaboration" of last Sept. 17. It not only links prisoner releases with a fixed date for U.S. troops withdrawals but also talks about taking all U.S. weapons and war materials from South Vietnamese troops and dismantling U.S. bases in Vietnam. Thus, the troop withdrawal deadline accomplishes nothing.

Consistently, the official Communist line in Paris has been that such a deadline set by Mr. Nixon would win him merely the right to *discuss* prisoner releases. Mme. Nguyen Thi Binh, chief South Vietnamese Communist negotiator, deviated from this only once. On April 15, an article by her in the French newspaper Le Monde suggested that Mr. Nixon need only fix a deadline "for GIs and American prisoners to be rapidly and safely returned."

But on the very day that article appeared, Mme. Binh was her usual intractable self at the negotiations session. Prisoners would return home, she said, only after the war had "come to an end"—that is, after a political settlement along Communist lines.

Rep. Leggett's visit to Paris on May 31 again showed the two faces Nguyen Van Tien, Mme. Binh's deputy, told the congressman that POWs could be released as soon as Mr. Nixon set a "reasonable date" for withdrawal. But when reporters queried Communist spokesmen about Leggett's visit, they were told repatriation of prisoners would be merely *discussed* once the withdrawal of troops was announced.

Still another example occurred when Anthony Lewis of The New York Times interviewed Xuan Thuy May 21. Lewis reported the North Vietnamese negotiator "understood the concern about the American prisoners and was ready to do something immediately . . . if Mr. Nixon set a withdrawal date." But the official Communist "transcript" cabled to Hanoi said only the Communists will "be ready to talk to Mr. Nixon on the POW issue" after a troop withdrawal.

The pattern is unmistakable. The ransom for American POWs will be much dearer than the Democratic-sponsored troop withdrawal deadline. To get them home, the U.S. must agree to humiliating concessions ending with a Communist regime in Saigon. Such is the iron *realpolitik* behind the Oriental smiles exhibited in Paris for American politicians.

WATER RESOURCE PROJECTS APPROVED BY THE SENATE COMMITTEE ON PUBLIC WORKS

Mr. RANDOLPH. Mr. President, in order that the Members of the Senate and other interested parties may be advised of various projects approved by the Committee on Public Works, I submit for inclusion in the RECORD, information on this matter:

Projects approved by the Senate Committee on Public Works on June 22, 1971, under the provisions of section 201 of the Flood Control Act of 1965, Public Law 89-298.

Project, estimated Federal cost	
University Wash, Riverside, Calif.[1]	$5,278,000
San Leandro Marina, Calif.[1]	73,500
Dunkirk Harbor, N.Y.[1]	530,000
Tybee Island, Ga.[2]	404,000
Beals Creek, Big Spring, Tex.	1,578,000

[1] The House Public Works Committee approved these projects on December 15, 1970.
[2] The House Public Works Committee approved this project on June 23, 1971.

Projects approved by the Senate Committee on Public Works on June 22, 1971, under the Watershed Protection and Flood Prevention Act, Public Law 566, 83d Congress, as amended:

Water Resource Projects approved by the Senate Committee on Public Works, June 22, 1971:

Project, estimated Federal cost	
Ecleto Creek, Tex.	$2,000,000
Ni River, Va.	367,000
Pond Creek, Tex.	2,337,000
Sanderson Canyon, Tex.	4,481,000
Tallasseehatchie Creek, Ala.	4,057,000
Cedar Creek, Ga.	704,000
Lower McKee Creek, Ill.	3,963,000
Upper McKee Creek, Ill.	2,737,000
West Sector, Whitewater River, Kans.	2,103,000
Middle South Branch, Forest River, N. Dak.	2,006,000
Deep Red Run-Coffin Creek, Okla.	1,388,000
Little Bigby Creek, Tenn.	1,746,000
Mill Creek, West Va.	3,942,000

NOTE.—The above watershed projects were approved by the House Public Works Committee on June 23, 1971.

PROBLEMS IN FOREIGN TRADE

Mr. FANNIN. Mr. President, our problems in foreign trade would be much easier to deal with if we could place the entire blame for our failing fortunes on high tariffs assessed by our trading partners.

Tariffs are only a part of the world trade problem, and in many industries they are a minor part of the problem.

The most alarming inequities in world trade today are caused by nontariff barriers and by unfair trade policies of foreign governments.

Nontariff barriers consist of redtape regulations which are difficult or impossible to comply with. In some cases, foreign governments have even refused to spell out specifications which American-made products must meet to be allowed into their countries. Foreign governments, intent on protecting their home market, have effectively closed out competition from America. U.S. television and auto manufacturers have told me that they have tried in vain to get American-made television sets and cars to the Japanese market. It has been virtually impossible.

Certainly we recognize the right of foreign governments to establish reasonable standards for products being sold in their territory. Congress has set safety specifications for cars which are sold in the United States. But these specifications were not set up to exclude foreign-made cars. Indeed, foreign car sales have soared even as new safety standards were put into effect. Our Government has made it perfectly clear to foreign car manufacturers as to what the standards are.

What I do object to are regulations by any government which are designed solely to exclude foreign-made products from the market. This is the type of discrimination American products run into in other lands.

This is a major problem in exporting.

In our own market, there is another problem. That is the situation where foreign governments not only allow, but encourage and even engage in the operation of, export cartels. Again, it is the Japanese who have perfected and been most successful in this area.

Huge cartels which would be illegal under U.S. law are manufacturing goods which are exported to the United States. Not only do these export industries have the advantage of being cartels, they also frequently enjoy government subsidies and other government aid in the export enterprises.

American businesses—limited by antitrust laws and without subsidies—find themselves outgunned. These individual businesses must try to compete against the power of both the cartel and the foreign government involved.

Foreign companies trying to make inroads in the American market thus have the resources to operate at a loss or very little profit for a long period of time. They have the blessing of their own government when they sell goods for less in the United States than for the price charged in their own country.

Mr. President, a recent article in the New York Times gives good insight into these problems. The article is based on the views of Dr. Horace J. De Podwin who was involved in the Kennedy round of tariff negotiations. Dr. De Podwin suggests that new international negotiations are needed with a congressional mandate to strike down nontariff barriers and to put an end to government-sanctioned export cartels.

I heartily agree with this proposal, and I ask unanimous consent that the full text of the article be printed in the RECORD.

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

ACTION BACKED ON TRADE—DEAN SCORES SUBSIDIES AND CARTELS

(By Brendan Jones)

Fairer rules of international competition that would ban export cartels and subsidies are a prime need for the solution of American trade problems, according to a former trade-policy consultant, Dr. Horace J. De Podwin.

Dr. De Podwin, an economist and dean of the Graduate Business School of Rutgers University, feels that the Nixon Administration should have taken even more aggressive action than at present in formulating trade policies to cope with import competition and lagging American exports.

"What is needed," he said in an interview, "is an aggressive policy that would seek truly liberal world trade and legislation by Congress authorizing negotiations for the elimination of all trade barriers and of unfair practices such as the Japanese and British export cartels."

Dr. De Podwin, who served as an advisor to the American representatives in the Kennedy round of tariff negotiations, commended the action of Secretary of State William P. Rogers last week in obtaining agreement for new trade-policy consultations by industrial countries.

The agreement, taken by the 23 member countries of the Organization for Economic Cooperation and Development, sets up a high-level body that will seek to resolve growing trade problems.

But Dr. De Podwin contended that more positive action—initiation of new trade-agreement negotiations—was needed to eliminate unfair trading practices.

"For the Kennedy round, we had definite negotiating authority under the Trade Expansion Act to reduce tariffs on manufactured goods on an across-the-board basis. And in this respect the negotiations were successful.

"On other matters, such as the elimination of nontariff barriers, rules of international competition and preferential tariff treatment for less developed countries, the guidelines were not specific enough and, so, nothing was accomplished in these areas.

"Just as in the Kennedy round, we now need an act of Congress that will specify the kind of unfair trading practices that we want to eliminate—the Japanese and British export cartels, the Italian steel-pricing subsidies."

Dr. De Podwin proposed also specific legislative authority for negotiating the removal of nontariff barriers such as import quotas and preclusive buying practices of governments. He noted that the United States had import quotas on many agricultural products, but that its nontariff barriers were not as numerous or as restrictive as those of many other countries.

Dr. De Podwin, who heads an economics consulting firm in Manhattan, noted that his research indicated unfair competitive practices in international trade had been an effective means of capturing a large share of American markets for a variety of imports.

Over the last 10 years, he said, Japanese exporters of television sets and other products openly practiced pricing policies designed to penetrate foreign markets. British exporters of ceramic tile, he said, have an agreement setting a higher price for the domestic market and a lower price for exports.

"And these practices are condoned by the respective governments," Dr. De Podwin asserted. "The Italian Government subsidizes the lower export prices of the Italian steel

industry, even though this is clearly in violation of the fair trading rules of GATT (the General Agreement on Tariffs and Trade)."

Two successive Washington Administrations, Dr. De Podwin asserted, failed to take any effective action against the price-cutting practices. Even though the Nixon Administration has now taken a tougher line on antidumping actions, he said, the procedures are still slow and cumbersome.

"As a result, we have foreign monopolies manipulating the nature and growth of our markets, while the Administration has provided no leadership in the trade area to a Congress that seems strongly protectionist. Labor and other groups that formerly were on the liberal trade side have turned protectionist because of our Government's failure to crack down on unfair trade practices."

Dr. De Podwin said he did not favor proposals for modification of United States antitrust laws that, in effect, would allow formation of export cartels by this country.

"There are no good cartels," he said. "Freer competition, removal of all trade barriers and monopolies will actually make it possible for American industry to compete effectively in world markets. Except perhaps for a very few high-cost industries such as power-equipment, American industry could produce and sell as low as any others once trade-barriers are removed."

OUTMODED EXPORT CONTROLS

Mr. SYMINGTON. Mr. President, it is indeed encouraging to note that, according to a recent article in the Albuquerque Journal, one of the Nation's foremost scientists, Dr. Harold M. Agnew, Director of the Los Alamos Scientific Laboratory, has called for a reexamination of U.S. export regulations in an effort "to give an across-the-board boost to the problems of unemployment and international relations."

For some time I have argued that the United States is only cutting itself out of potential markets by refusing to sell items to mainland China or Eastern European countries on the ground that such trade is detrimental to our national security. As Dr. Agnew points out:

If we don't sell them these items, someone else certainly will.

He then continues:

Our obsession with secrecy—on the basis that if it's secret we'll be the only ones who are able to do it—is just not valid. The restrictions have established a false sense of security in the idea that if you hold back your exports they're not going to be able to develop these systems. It's simply not true.

I ask unanimous consent that the article entitled "Easing on Exports Urged by Scientists," published from the Albuquerque Journal of Friday, June 18, be printed in the RECORD.

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

[From the Albuquerque Journal, June 18, 1971]

EASING ON EXPORTS URGED BY SCIENTIST

One of New Mexico's top scientists Thursday urged an easing of the "Mickey Mouse rules of export restrictions" to give an across-the-board boost to the problems of unemployment and international relations.

Dr. Harold M. Agnew, director of the Los Alamos Scientific Laboratory, made his remarks in a luncheon address before the Albuquerque Rotary Club.

Agnew's criticism was directed at standing controls on exports—controls which he said are outmoded in the face of today's rapidly advancing technology.

"If we're going to do anything to increase jobs and boost the economy I would urge that we should review and re-examine our export rules," Agnew said. "Some of these Mickey Mouse rules are hurting our whole industry across the board."

In support of his argument, Agnew noted that it took the United States eight years to develop the hydrogen bomb, yet the Soviet Union followed this initial breakthrough three years later and Red China 12 after that.

"Half the battle is won when you know that it's possible," Agnew said. "And if the prime purpose of the export restrictions was to prevent the Soviets and the Red Chinese from developing nuclear weapons, the system has certainly failed.

"Our obsession with secrecy—on the basis that if it's secret we'll be the only ones who are able to do it—is just not valid.

"People in other countries have as much brains as we do. I doubt that they (the Soviets and the Red Chinese) could have moved much faster if they had had complete access to all our information."

"The restrictions have established a false sense of security in the area that if you hold back your exports they're not going to be able to develop these systems. It's simply not true."

Agnew said he realized there are some things which cannot justifiably be authorized for export. But he questioned restrictions of trade with Red China which prohibit the sale of goods such as diesel locomotives and commercial jet airliners.

"If we don't sell them these items, someone else certainly will," he said.

"For the life of me, I can't see why the export of commercial jet aircraft is going to endanger the security of the United States."

The sale of such items to the Red Chinese, Agnew said, would benefit relationships between the two nations.

"You establish worse relations, not because of what you sell, but because of what you don't sell," Agnew said. "You export to one guy and not to the other and thus antagonize somebody."

Agnew said the U.S. export law "is following a policy 20 years old. Technology is moving so fast now that we don't realize it's a rather fruitless endeavor."

NATIONAL COMMISSION ON MATERIALS POLICY

Mr. BOGGS. Mr. President, President Nixon yesterday sent to the Senate the names of the seven men he has nominated to serve on the National Commission on Materials Policy. I believe the President made an excellent selection, and that the panel possesses a broad range of talent that will effectively study problems of materials flow and the impact of those materials on our environment.

This Commission was created by title II of the Resource Recovery Act of 1970 (Public Law 91–512). I would like to quote for the benefit of my colleagues the language of the purposes of the Commission:

It is the purpose of this title to enhance environmental quality and conserve materials by developing a national materials policy to utilize present resources and technology more efficiently, to anticipate the future materials requirements of the nation and the world, and to make recommendations on the supply, use, recovery, and disposal of materials.

The seven individuals selected by the President are well equipped to undertake this important task. Two members of the President's Cabinet, Secretaries Morton and Stans, have been nominated to the Commission. Their departments are vitally concerned with the problems of materials supply and use. Thus they are appropriate and excellent nominees.

I am particularly delighted by the range of the expertise that will be brought to the Commission by the five nominees selected from the private sector.

Jerome L. Klaff, president of H. Klaff and Co., Inc., in Baltimore, was selected to serve as Chairman of the Commission by President Nixon. Mr. Klaff, whose company is in the recycling business, is a former president of the National Association of Secondary Materials Industries, the main American organization concerned with the practical aspects of recycling.

Frederick Seitz, president of Rockefeller University in New York City, is another nominee. He is a physicist with a speciality in metals and is the past president of the National Academy of Sciences. I know he will bring great distinction to the Commission.

Lynton Keith Caldwell, professor of political science at Indiana University, has been also nominated by the President to the Commission. J. Hugh Liedtke, president of Pennzoil United, and Lee W. Minton, president of the Glass Bottle Blowers Association and a vice president of the AFL–CIO executive council have also been named to the Commission.

In closing, Mr. President, I believe that the nominees are an excellent group for studying problems relating to materials policy. I am hopeful that they can begin their deliberations in the not too distant future.

Mr. President, I ask unanimous consent that the White House announcement on the Commission be printed as a part of the RECORD, as I believe the announcement explains more fully some of the duties of the Commission.

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

THE WHITE HOUSE ANNOUNCEMENT

The President today has announced his intention to nominate seven persons to be members of the National Commission on Materials Policy. The nominees are:

Lynton Keith Caldwell, of Indiana, Professor of Political Science, Indiana University, Bloomington, Indiana.

Jerome L. Klaff, of Maryland, President, H. Klaff and Company, Inc., Baltimore, Maryland.

J. Hugh Liedtke, of Texas, President and Chief Executive Officer, Pennzoil United, Houston, Texas.

Lee W. Minton, of Pennsylvania, President, Glass Bottle Blowers Association of the United States and Canada, Philadelphia, Pennsylvania.

Frederick Seitz, of New York, President, Rockefeller University, New York, New York.

Rogers Morton, of Maryland, Secretary of Interior.

Maurice Stans, of New York, Secretary of Commerce.

Further, the President today announced his intention to designate Jerome L. Klaff to serve as Chairman of the Commission, which was established October 26, 1970 (P.L.

91-512). Under the law, the President is to appoint seven members to the Commission, to be chosen from government service and the private sector.

The Commission is to report to the President and to the Congress no later than June 30, 1973 its findings and recommendations for a national materials policy. The Commission is to assess national and international materials requirements and is to investigate the relationship of materials policy to population, size and environmental quality.

The Report of the Commission is to recommend means for the extraction, development and use of materials which are susceptible to recycling, reuse or self destruction. The Commission is also to recommend how to best implement a national materials policy and to comment on the role of particular Federal agencies in the implementation and continuing assessment and development of a national materials policy.

THE NEED FOR COMPARABLE PUBLIC SERVICES

Mr. HUMPHREY. Mr. President, the Washington Post has published an article by Peter G. Brown, of the Urban Institute, on a subject that I believe is one of the fundamental problems of our urban crisis—the quality of public services.

Mr. Brown clearly delineates the issues involved when citizens have unequal access to government-provided services. At the very least, substantial provisions of our Constitution—especially the 14th Amendment—have an important, though presently unclear, impact on this issue.

Public services are breaking down. And, the delivery of public service does vary from city to city and neighborhood to neighborhood. The question is what shall we do about it? What plan of action shall we take?

Mr. President, I have advocated the position that our country must provide comparable standards of services to all of its citizens. With the different economic compositions of our neighborhoods, and the high mobility rate of our people, it makes sense to treat the problem of public services as a national problem requiring a national policy.

Mr. President, I ask unanimous consent that Mr. Brown's article be printed in the RECORD.

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

NOTIONS OF EQUALITY VS. CONCEPTS OF FREEDOM—THE ISSUE OF COMPARABLE LEVELS OF PUBLIC SERVICES

(By Peter G. Brown)

The contrast between jurisdictions with markedly inferior and superior public services—a contrast that often occurs between poor central cities and affluent suburbs—reflects one of the most pressing current urban problems. Recent court decisions offer reason to suppose that these striking differences may ultimately be found to be unconstitutional. The timely question, in connection with growing complaints of certain city dwellers about unequal access to government-provided services, is whether residence in separate jurisdictions within the same states is a bona fide reason for unequal treatment.

The notion of equality before the law finds its clearest constitutional embodiment in Section 1 of the 14th Amendment:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law; *nor deny to any person within its jurisdiction the equal protection of the laws.*"

As applied to urban/suburban disparities, the final phrase is somewhat ambiguous. Could it be interpreted to mean that a person is entitled to equal treatment in respect to all public goods and services? Two cases in the lower courts bear on this issue.

One is *Hobson vs. Hansen* in the United States District Court for the District of Columbia. In his far-reaching decision, Judge Wright argued that radically unequal per pupil expenditures in the Washington, D.C., public school system were a violation of the principles of the Supreme Court's 1954 school desegregation decision and of due process. He enjoined the school system from further unequal appropriations on a per pupil basis. According to this interpretation, equal protection and due process require roughly equal expenditures within a jurisdiction for at least one public service—education—for all elementary school children.

A 1971 case in the Fifth Circuit, *Hawkins vs. Shaw*, has held that public services such as lighting, paving, water and sewers, must be supplied on an equal basis to neighborhoods of both blacks and whites throughout the town of Shaw, Miss. The ruling stated that any other arrangement violates the equal protection clause of the 14th Amendment. The case stemmed from the not uncommon practice of a community to provide very different qualities of government services to sections inhabited by different races.

Two of the three judges in the Shaw case quote approvingly from a 1967 decision called *Avery vs. Midland County:*

"A city, town or country may no more deny the equal protection of the laws than it may abridge freedom of speech, establish an official religion, arrest without probable cause, or deny the due process of law."

Taken together, these cases strongly support the interpretation that equal protection includes a guarantee of equal public service within a given jurisdiction.

It is not much of a step to apply this reading to the conflicts between cities and suburbs. Often, radically different levels of public services are found even in adjacent political jurisdictions. Schools, trash collection, fire protection, police surveillance, sewer and water utilities, and other goods and services normally supplied by local government may be excellent on one side of the boundary and extremely bad across the jurisdictional line. The fiscal plight of many central cities is compounded by higher crime rates and typically higher loads of health and welfare cases. Next door, other jurisdictions with a minimum of social problems and greater taxable assets enjoy low tax rates relative to the superior public services they receive.

This is where the language of the 14th Amendment becomes crucial in respect to the fiscal plight of the central city. The 14th Amendment suggests that the relevant jurisdictions on the local level for securing equal protection is the state. Consequently, the states may be under a constitutional duty to eliminate or alter the significance of jurisdictional boundaries insofar as these lead to *de facto* differences in services, an interpretation that can be further sustained by the fact that separate local jurisdictions exist only at the pleasure of the states. Municipalities and other communities that incorporate are granted the power to do so by the states. Counties and municipal jurisdictions are creatures of the states and have no authority beyond what the state confers nor beyond what the states (through proper specified processes) could alter or withdraw. Here, of course, invoking the *Hawkins vs. Shaw* decision, which construes equal protection to mean equal public services, is crucial to the argument.

Two paths seem available for pursuit at this point. First, the court might declare that radically different levels of public service are unconstitutional when these differences occur between different income groups. Alternatively, these differences in services might be declared unconstitutional where they correspond to racial segregation, a condition which, to some extent, corresponds to city/suburban boundaries. As the central cities in some areas become progressively more black in composition assuming the level of services remains inferior, this could provide a powerful tool for requiring the states to improve the quality of services in the ghetto.

If the states recognize or are required by the courts to deal with public service differences within their larger jurisdictions, a variety of methods would be available for corrective action. One might be state supplementation of local revenue for all basic services. Another might be a requirement that a centralized political body of metropolitan regions, such as a council of governments, be required to collect local tax revenues without reference to suburban or central city boundaries so as to give all jurisdictions equal access to the area-wide tax base.

Perhaps the most vexing question that courts and others must face in carrying out practical correctives is whether public services have to be approximately equal for all, or whether there is rather a need for some minimum standard for all, above which local jurisdictions may spend as much as they can or wish.

The question arises because the moral and legal notion of equality comes into conflict with another powerful moral and legal strain in our tradition—that concerning freedom. At a minimum, this tradition holds that there are certain areas in which neither the government nor other citizens may interfere with personal rights. The dilemma that emerges is obvious: If residents of different jurisdictions wish to undertake nonuniform kinds of activities and levels of expenditures, is it proper for the states to limit or prohibit them from arriving at such decisions?

The issue arose in the 1968 case of *McInnes vs. Shapiro* in the U.S. District Court of the Northern District of Illinois. The specific issue was whether *de facto* differences in educational expenditures per pupil, resulting from unequal taxable assets in the relevant jurisdictions, could be declared unconstitutional on the basis of the equal protection doctrine. The court ruled that "there is no constitutional requirement that public school expenditures be made only on the basis of pupils' educational needs without regard to the financial strength of local school districts." Of the arguments presented to reach this conclusion, the following is most pertinent:

"The General Assembly's delegation of authority to school districts appears designed to allow individual localities to determine their own tax burden according to the importance which they place on public schools. Moreover, local citizens must select which municipal services they value most highly. While some communities might place heavy emphasis on schools, others may cherish police protection or improved roads. The state legislature's decision to allow local choice and experimentation is reasonable, especially since the common school fund assures a minimum of $400 per student."

It seemed crucial to the court that residents of a jurisdiction have the right to emphasize whatever services they deem most important. But to defend this freedom is not to say it is without limits. The last clause of the last sentence quoted implies that *some* differential level of services could

48-059 O - 72 - pt. 17 - 11

be held unreasonable. If the case in question had involved only a $20 per pupil minimum while pupils in many jurisdictions were receiving $1,000, the court might well have been led to say that either the state minimum was too low or the expenditure levels of the various jurisdictions were too far apart, or both. And it was important to the court that the state *already* was exercising responsibility to reduce unreasonable differentials by subsidizing a basic level of spending for all students in the state. The courts are more prone to insist on some degree of reasonableness than to determine precisely what constitutes a reasonable level of expenditure.

Nevertheless, the issue of comparable levels of public services is likely to become increasingly important as people of different income and racial groups tend to become more separated into different jurisdictions within metropolitan regions, and as the levels of available services reflect the different economic composition of the residents. When and where the courts may hold that states are denying equal protection of the laws cannot readily be predicted. But the recent trend suggests that the courts will take a hard look at public service inequalities. In doing so, the challenge is to balance the values of freedom and equality before the law in a society which is dedicated to both.

CENSUS INFORMATION SHOULD NOT BE USED IMPROPERLY BY GOVERNMENT AGAINST INDIVIDUAL CITIZENS

Mr. RANDOLPH. Mr. President, charges that census information suppled by individual citizens can be and sometimes is made available to investigative arms and agents of law enforcement agencies have not been uncommon.

There is sufficient information available to suggest that at least some of these charges are true.

There is room for serious question as to whether, in fact, the demand by the Federal Government that its citizens answer specific census questions does or does not invade the privacy of those citizens in contravention of the Constitution. This is an issue apart from the allegation that census information, pledged by the Government to be absolutely confidential, is freely made available to law enforcement agencies and, perhaps, other instrumentalities.

Don Daniels, columnist for the Wheeling, W. Va., News-Register, brought out in a recent column in that newspaper, an evaluation of a condition which has the potential for being an insidious exploitation of individuals and families by census takers who turn out to be informants for FBI agents and possibly other law enforcement operators and operations.

Mr. Daniels wrote that he has in his possession a copy of information provided by an FBI agent to a U.S. Commissioner in which the agent allegedly quoted at length information he derived from a female census taker in a western Pennsylvania community. If what Mr. Daniels alleged in his column of June 3 is true, then there has been a serious breach of the public confidence.

I recommend that both the Justice Department and the Commerce Department investigate this matter and that steps be taken immediately to assure that the Federal Government does not in the future violate the rights of citizens through misuse—or, at least, questionable use—of census data supplied in good faith by individual citizens. And, I hope, investigation will be made to ascertain whether or not census takers are operating in that role and as criminal investigation informers at the same time.

Mr. President, I ask unanimous consent that the Don Daniels column of June 3, 1971, in the Wheeling News-Register be printed in the RECORD:

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

DON DANIELS

I presume you will recall that when the last census was about to be taken I objected to the particular invasion of privacy. I also pointed out that despite government assurances any information you gave the census taker, would not be kept secret.

I now say to you that the government lied to you when you gave the information. I now say to you that census takers have been used by the government and the FBI to provide information to grand juries. I now say to you, ladies and gentlemen, that you have been hoodwinked and used and that what information you provided is available to investigative agencies and if the precise information is not then the impressions of census takers are.

You have been lied to, citizens.

I have in my possession, a copy of information provided by FBI agent Delbert Roberts to a United States commissioner. It involved one Chester Stupak, a Tony Petersavage and, according to agent Roberts, a Vincent Di Pilla. These have been indicted for operations in interstate gambling. The place involved is the Alamo . . . the upstairs of the Alamo Night Club near Bridgeport.

Now I am not concerned with the guilt or innocence of any of these although I do know Mr. Stupak slightly.

I have never been in the Alamo.

Agent Roberts quoted at length, information he derived from one Agnes Finley who resides at 105 Clubhouse Drive in McMurray, Pa. The Finley woman was a census taker. She worked in the Peters Township School District there. Ralph Barton is the chief of police of McMurray, Pa. He revealed to the eager FBI agent that at one time he had to call the accused Tony Petersavage into his office. It seems that the underage son of Mr. Petersavage had operated a motor bike on a public highway without license or registration. Picking up numbers slips, no doubt.

However, the Finley woman, who is supposed to be, according to the government, duty bound to reveal nothing of what she learned as a census taker, talked longer.

According to the affidavit signed and sworn to by FBI agent Roberts, Mrs. Finley told him she visited the Petersavage residence at 311 Lakewood Drive, McMurray, June 23, 1970. Performing her duty as a census taker. She spoke with Marcella Petersavage, an eighth grade student. She asked the young girl about her father's employment. She later talked with Petersavage himself and he asked why she was asking the questions. She told him it was for the census.

Mrs. Finley, according to agent Roberts, said she visited the Petersavage residence three years in a row while performing her duties as a census taker. (Why three years in a row?)

The Finley woman provided information as to the living habits of Petersavage, the number of days he spent with his family, the number of days he spent in Ohio, the names and birthdates of his children. She also told the FBI agent that "Mrs. Petersavage is an unusual person and is seldom seen outside her residence." Those are the words quoted by the FBI agent. There is more, none of it having any direct bearing on whether or not Petersavage is guilty of involvement in a gambling activity, but of a personal nature.

His guilt or innocence is not at issue here. What is at issue is the fact that a Federal Bureau of Investigation agent did indeed go to a census taker and elicit from her information gathered during the performance of her duties. From the agent's sworn affidavit it would appear that the information was given willingly and with a little imagination you could even suspect that the Finley woman was indeed working for the FBI all the time she was ostensibly simply a census taker.

I submit, ladies and gentlemen of the free United States that the case of Petersavage, whom I do not know, puts the government and the FBI in the position of having lied to you deliberately. You were told that information on your census form would be totally confidential. From that you are entitled to assume, I think, that any other information or observation gathered by the census taker would be confidential also. It should not be made the subject of a sworn affidavit by an FBI agent and not be used before a grand jury in order to build or bolster an accusation. Perhaps, George Orwell, 1984 has come early.

In his sworn statement, agent Roberts made reference to various "informants" numbering five in all. No names. As an interesting sidelight you might note that agent Roberts mentioned also a Martins Ferry man. The man runs a billiards place there. This man, according to agent Roberts, contributed information regarding gambling activity at the Alamo.

He is what newspaper writers often refer to as a "well known gambling figure." I note with some interest that the FBI, which used the man in their investigation, has shown scant interest in his place. Neither have the local police.

In the case of the census taker, I claim you have been betrayed, citizen. You have been lied to from the outset and if a two-bit gambler from McMurray, Pa. can be the target at which the FBI throws census taker darts then so can you. If another two-bit gambler can be used in the same fashion and remain unscathed in his own operation, then all of us are vulnerable to whichever bird sings the loudest.

What I've told you here is true, I have the signed statement of agent Roberts to prove it. I intend to keep it.

I am opposed to crime, citizen, even when it is committed from behind a badge.

BILL BRADLEY—ALL-AMERICAN, RHODES SCHOLAR, PROFESSIONAL BASKETBALL STAR

Mr. SYMINGTON. Mr. President, the State of Missouri has many things of which to be proud, not the least being the extraordinary record of one of its relatively young citizens, Bill Bradley, of Crystal City, universally considered the greatest basketball played ever produced by the Ivy League, a sportsman who was voted the James E. Sullivan Award in 1965 as the Nation's No. 1 amateur athlete.

Rather than go into professional basketball immediately upon graduation, Bill Bradley, already a member of Phi Beta Kappa, chose to be abroad as a distinguished Rhodes Scholar.

Upon returning in 1967, Bill started his most successful professional basketball career with the New York Knickerbockers.

Not because he is an outstanding scholar as well as a great athlete, however, but because recently he made an address

which every American would find interesting, I shall place this superb talk in the CONGRESSIONAL RECORD.

In a one-paragraph preamble when he was the principal speaker at the annual St. Louis Post-Dispatch Scholar Athlete Awards banquet last month, an assemblage of which I had the honor to be chairman, Bradley summarized his later address to the 113 chosen scholar-athletes as well as the more than 600 guests as follows:

Tonight I'll not follow the usual procedure for a speech to a Scholar-Athlete dinner. Some of the things I'll say, I wish had been said to me a few years ago when I was a senior in high school. It would have made life a lot easier. So this talk tonight is really for you. Take and make what you want of it.

I ask unanimous consent that this superb presentation by a young man who represents so much of this Nation's hope for the future be printed in the RECORD.

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

ADDRESS BY BILL BRADLEY

In 1964 Bob Dylan wrote a song called "The Times They Are A'changin'." After poignant warnings to writers and critics, senators and congressmen, mothers and fathers, he said in the last stanza, "The line it is drawn; the curse it is cast; the slow one now will later be fast, as the present now will later be past; the order is rapidly fading, and the first one now will later be last—For the times they are a'changin'." Today, seven years later, the accuracy of this prophecy must surprise even Dylan.

We live in a world where survival becomes more precarious every day. The basic racial antagonism of our American history remains festering without sufficient attention; 18-year-old Americans are sent—unconstitutionally—to die in the civil war of an underdeveloped country on the other side of the world for the espoused purpose of protecting America; political fugitives compose one-half of the FBI's most-wanted list; hollow men in windowless skyscrapers make private investment decisions without concern for man or nature; mass education programs students to fit into categories of mediocrity where imagination falls before the sword of efficiency. We learn our myths early and see the world through them—the myth of America's moral superiority, our manifest destiny, the melting pot, and the deceptive belief in progress; and hovering behind the myths lie the frightful possibilities of nuclear war where man can return himself to ashes.

As young Americans, your world is all the above with the specific shading of high school athletes ready to go to college; many leaving home; some never to return.

How do you react to this litany of America's ills? How do you react to the high school in which you were the star, to college recruiting, to your teachers, to parents and girl friends and, most important, how do you react to yourself?

Upon confronting to social environment of America, one way to react is not to react; to pretend there are no problems; that things today are like things yesterday; that the values, ideas and modes which served the 1920's and 30's can also serve the 1970's. One gets nowhere to argue that we have strayed far from the ideals of our founding fathers, or that indeed America is good but you want it to be better. The reply is always, "America is the best country in the world and you're a traitor to criticize it." But, is a man un-American to suggest the dimensions of our social-economic problems?

Last Saturday, a close friend of mine who happens to be Japanese-American, born in a U.S.-Government-built concentration camp in California, appeared on the Bill Fields Show in St. Louis. He explained some of the nation's problems, as seen through his experience. The responses he got were filled with hatred. He was called a stooge, saddled with the responsibility for Pearl Harbor, accused of being ungrateful for what he had and, most viciously, of not being a true American. Because he looked different from most Americans, he was expected to express his love, his devotion and his loyalty, but never his criticism of the United States. The implication was that although he was born in California, grew up in a largely white community, went to the nation's best schools and thought like any American with his background, he still would not be accepted automatically for, to the listeners, an American is white, not yellow; another example that the myth of America as a melting pot is dead. I fear there are many Americans like the listeners to the Bill Fields Show who do not want to know about the sickness that affects our nation and do not accept the ideals of our founding fathers. It is because of them that I fear for the future of our country.

Most of you, I hope, will not forsake your perception. Most of you will admit something has gone wrong in our country. Once your admission is out you can begin to look for a cure. Unfortunately, for a growing number of young Americans so much has gone wrong that disillusionment has set in. The problems seem so great and pervasive that doing battle seems an impossible option. They believe as Joni Mitchell sings, "Ice cream castles in the air and feathered canyons everywhere. I've looked at clouds that way; but now they only block the sun. They rain and snow on everyone. So many things I would have done but clouds got in my way . . . It's life's illusions I recall . . . I really don't know life at all." A generation ago they would have called such a person a pessimist. In your locker-rooms, some coaches would call them quitters. More and more, though, everyone begins to see that these quitters are really warm, gentle people whose only mistake was to believe, early in life, much of what was taught about America and life's possibilities.

Others of you will react to the social environment by believing in the textbook answer to the turmoil of our lives. You will prepare for a future within the present social structure. During college, you will acquire the skills, largely verbal, that equip one to succeed in our corporate or government bureaucracies. You will develop a schedule for your life, read great books and learn to solve problems with a quantitative approach. You will probably become a liberal, with an iron-bound belief in progress and a strong distrust for anyone who holds different views of procedure or structure. You will be a good athlete, probably the captain of your team. One of you might be an All-American. You will emerge committed with your working life to better the ills of your nation. But my bet is you will not succeed, because your life style will be detached from your professed ideals. You will not be able to personalize your social concern.

The radical reaction is another alternative. It sets out to destroy the very institution that the liberal needs to give himself identity. It says march, boycott, bomb, abolish all organized athletics, and make a revolution. They are to be admired because they do act. Their action, however, should be ridiculed more than feared, senseless acts of violence, like pebbles dropped into the sea. The radical's rigidity is very much like that of those who fling around the accusation of un-American. Because one is lodged hopelessly in the past and the other lives only for the future, both ignore the process of life.

Beyond these four rather stereotyped reactions to our social environment, the personal dilemma of most college students concerns belief. One who does well academically will acquire the analytical skills which make him a good commodity for the corporate state upon graduation. When he turns those skills toward areas of life other than his specialty, however, the inconsistencies in them become equally as clear. He often is castigated for being too critical while in fact he is simply applying the tools society has given him to all the issues instead of a specialized few. Joni Mitchell calls it "seeing life from both sides."

There is a danger of seeing life from both sides, for it is just a short distance from there to profound unhappiness. Joseph Conrad's novel Victory is about a man named Heyst who travels the short distance in his youth. After a childhood with a father whose skeptical analysis of life leaves him without belief in human possibility or great achievements, he finds nothing worthy of affirmation. It is not the clearsighted who lead the world, his father cries, and Heyst has become clearsighted. Depressed by his power of analysis, he drifts around the South Seas, distrustful, purposely detached, unwilling to make connection with another human spirit. Finally, he opts for the logical extension of his world view and settles on an island where his only contact with the outside world comes from the monthly visit of an ocean steamer. The irony of the story rests in Heyst's last words, which he utters in the arms of the old sea captain: "Ah, Davidson," he says, "woe to the man whose heart has not learned while young to hope, to love and to put his trust in life."

When confronted with our world today, that is my only response. Put your trust in life. Without personal fulfillment, no social-political answer can deal with the depth of today's problems, for they rest at the center of man's existence. To me, trusting in life involves at least three personal actions.

First, one must accept responsibility for himself, before he can deal with other people or larger social issues. We have to give up the excuses for not dealing with ourselves. It is easy to blame bad games on the coach, poor grades on an intractable teacher. It is easy to live in the "I-could-have-if-I-only" syndrome. It is also easy to ignore one's own contribution to our social problems by blaming their existence on an abstraction. Schools are not bad because of communism or atheism. They are bad because selfish, indifferent people do not vote for school bond issues. Pollution exists not because of runaway technology, but because individuals prefer excessive consumption to a clean environment. College athletics is hypocritical not because of race or the generation gap, but because some coaches exploit young athletes and young athletes allow it.

The necessary identity crisis that most people go through in late adolescence occurs less often in the life of the scholar-athlete, for his milieu gives him a role at age 18, with tempting rewards to play it. If you as an 18-year-old scholar-athlete, fail to grapple with that fact, you will always be a scholar-athlete to yourself. One might be frightened to see how similar each of you really are. I wonder how many of you have accepted your role with the knowledge of what it means for the future.

When one puts away the excuses and deals with himself, he accepts himself as he is, without the need of labels like A student, All-American and scholar-athlete. His identity does not depend on other people's expectations or impersonal status symbols like cars, clothes, titles and neighborhoods. When one has some idea who he is, that is, what he likes to do, what he values and believes, he rejects society's roles if they do not fit. Once that rejection takes place, he will be ready to experience genuine human contact. He will be able to concern himself with the welfare of other people because he knows himself. He will be one step closer to trusting in life.

A more difficult step to take is to make

yourself open to other people on a personal level and to approach them yourself. Approaching other people in such a manner is difficult for many of you. You have been the center of attention. You have been the star of your school. Your telephone rings more than it is dialed. Other people have wanted you for their club. Other students have admired you. Our society identifies your performance as success. At the same time, due to your early prominence, it is hard for you to laugh at failure and to open up your fears to the confidence of friends. You have found that being a scholar-athlete equips you with no special qualifications as a person. It gives you no head start in forming a true friendship or developing the capacities to love. If you go on to college and do well in an approved public forum like athletics, it can only become more intense. As you succeed, more and more people will take sustenance from you, while simultaneously they grow further from you personally.

The reasons they depend upon you are vicarious. America is a vicarious society. The Sunday afternoon football game allows us to be Monday morning quarterbacks, while taking us to levels of excitement we would never attain or expect from our jobs. This is one of the things that bothers me about professional basketball and makes me wonder how much longer I will play. I love the game. The sensation of a well-executed play is unparalleled. But more and more I think of the other people, the fans and what my relationship is to them. Even if I reject the vicarious role, off the court, as I do, the fact remains I still play, and thousands of people who do not know me use my participation on a Sunday afternoon as an excuse for non-action, as a fix to help them escape their own everyday problems, and society's problems. The toll of providing that experience is beginning to register on me. The toll on them will probably register too late.

Thinking Congressman X will do it, or getting one's personal thrills through the reported lives of movie stars and pro-athletes, or feeling no need to boycott products because there are people like Ralph Nader; none of these will save the country. Only you, as one individual who makes a seemingly meaningless commitment of himself, can change things. No one else can do it for you. Only hundreds of individuals can make an athletic department become unconcerned with money and victory-at-any-cost and more concerned with the healthy aspects of competition, learning, and the human spirit. Only millions of individuals can succeed in demanding that 18-year-olds no longer be sent to die in the quagmires of Southeast Asia, that private investment decisions no longer be made without concern for man or nature, and that men no longer treat their fellow men as objects of senseless hatred.

The greatest obstacle blocking individuals from putting their trust in life and influencing society as fulfilled men is the security syndrome. It destroys youthful idealism and makes true self-realization impossible. To change a society, one must have the personal courage to accept risks. Most of you are young enough and bright enough to find your own life style. The question is, "Do you have the personal courage to live it?"

Many of you have undergone interviews for college in which you were asked what you want to be. Few of you know, and there is no reason why you should, especially before you know yourself. During these next few years is the time to decide about one thing only—education—who you are and what you believe. More accurately put, you could ask "Education for what?" Are you being subtly programmed into being a certain kind of person with a narrow range of traditional career alternatives? If so, rebel. Learning should lead to freedom, not restraint. Learning is not a matter of the university, a diploma or grades. It is a matter of what you know, what you can perceive about yourself and your times, and, ultimately, it is a matter of what you do, whether you work on your own perceptions and values or blindly accept the programmed job and the programmed values. One is never too young to take a stand. Wisdom is where you find it. It is not the exclusive province of any age group.

What is important is not what you leave behind or wanted to do or said you would do, but what you do, how you spend your time, your work. As Conrad says, "In one's activity alone do we find that sustaining illusion of an independent existence." During your college years your work could be discovering yourself. It's a unique opportunity. There is no accepted method for everyone; indeed, some never experience the search and others fail to realize its importance. Do not allow your alternatives to stop with studies and college sports. There must be more imagination in this room tonight. Whether you spend the next few years competing on the athletic field, walking in the protest line, studying at the library, hiking the U.S., working on a farm, playing rock music or following the sun—you ideally will learn to hope, to love, and to put your trust in life.

If there is a Bob Dylan in the auditorium tonight, let's hope he does not have to deal with today's stereotype images of conservatism, liberalism, disillusionment or radicalism; let's hope he can write of joy and fulfillment; of the life possible for all of us in the future; of how individuals who know themselves can influence the larger social issues; of how a society can be created which is not life denying but life giving. For even before the sediment of the 1960's has settled the times they are a 'changin'—once more.

NATIONAL CIVIL SERVICE LEAGUE ENDORSES EXECUTIVE REORGANIZATION

Mr. PERCY. Mr. President, the National Civil Service League has, since the foundation of the civil service merit system in the 1883 Pendleton Act, been the major public interest group promoting quality in the civil service system. The league annually presents 10 coveted awards to civil servants for distinguished achievement.

Thus the National Civil Service League's wholehearted endorsement of the President's executive reorganization proposals has special significance. The league considers the reorganization "a landmark in Federal administrative history." The president of the league, Mortimer Caplin, and the chairman of the executive committee, Bernard L. Gladieux, wrote the President on June 7 on behalf of the league that—

> The League concurs that the present fragmented structure, oriented to special interests or purposes, is no longer adapted to a comprehensive and coordinated attack on the socio-economic problems of modern times. We believe that the proposed plans can provide a much more suitable and rational framework for both policy and administration.

Thus, Mr. President, we have the judgment of an organization of unquestioned competence that the reorganization proposals are necessary. The program is bold, and the President is to be commended for his courage in proposing it. I think we in the Senate must respond with equal boldness to implement these fundamental improvements in the operations of Government. The National Civil Service League has long been a student of the Federal executive structure, a stanch advocate of quality and defender of the best in our civil service. Let us take its advice to heart and act.

I ask unanimous consent that the letter be printed in the RECORD.

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

NATIONAL CIVIL SERVICE LEAGUE,
June 7, 1971.

HON. RICHARD M. NIXON,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The Board of Directors of the National Civil Service League warmly endorses the management doctrine and conceptual principles embodied in the four reorganization proposals presented to the Congress in your message of March 25. This proposal to integrate a congeries of Federal departments and agencies dealing with domestic affairs into a more rational structure is a landmark in Federal administrative history. We commend your foresight in designing this organization plan and presenting it to the Congress.

The structural context in which policies are formulated and programs carried out clearly serves as a major determinant of the effectiveness of governmental services. The League concurs that the present fragmented structure, oriented to special interests or purposes, is no longer adapted to a comprehensive and coordinated attack on the socio-economic problems of modern times. We believe that the proposed plans can provide a much more suitable and rational framework for both policy and administration in their promise to:

Assure better accountability through clearly delineated authority for broad but definitive missions;

Afford greater prospects for eliminating overlapping programs and producing efficiency and cost reductions;

Facilitate the balancing of conflicting demands on our resources by granting broader flexibility to Cabinet members in decision-making;

Enhance Presidential control of the Executive Branch by limiting the number of principal subordinates;

Give broader opportunity for more uniform standards and wider mobility in government personnel utilization.

We also believe the overall plan will have the virtue of shielding the President from the mounting volume of coordination necessary to accommodate policies and resolve conflicts on particular issues. These are often of a subordinate nature and impose a heavy burden upon the President, who should be free for uniquely Presidential decisions and concerns.

Furthermore, by placing more responsibility in Cabinet officers and by reducing the number of primary departmental entities there should be greater assurance that Secretaries of government will be more closely identified with the President, more intimately advised as to his perspective and, therefore, better equipped to deal with substantive policy issues which now require extensive White House coordination. It is, thus, our hope that the reorganization will help restore the Cabinet to positions of primacy in the councils of government and arrest the trend toward excessive reliance on White House coordinating staffs evident in successive administrations since World War II.

The proposed massive concentration of domestic functions in a few comprehensive departments will confront you and your administration with an unprecedented management challenge. Cabinet leadership of exceptional management competence will be required, and the most modern management

techniques will have to be adopted. Good management will also require extraordinary care in selecting key departmental executives and the optimum utilization of the senior civil service staff. Many other Federal reorganizations have faltered on this score and have failed to produce the anticipated benefits because of managerial deficiencies.

For all these reasons we endorse your reorganization proposals and convey to you the willingness of representatives of the League, as a public interest organization, to voice our support as appropriate. Some of us may have varying views with respect to the transfer or assignment of particular functions. Admittedly, there are many issues concerning the most suitable locus for specific bureaus of programs and reasonable men can expect to have some differences concerning them. Likewise, alternative clustering of functions and agencies within the general context of the plan may prove to have merit. Nevertheless, this in no way dilutes our endorsement of the basic principles and concepts underlying the proposed creation of these four new departments of government.

Please accept the good wishes of our Board as you proceed with the important task of forming a Federal organization which will produce better responsivity and efficiency in Federal administration.

Very truly yours,

MORTIMER M. CAPLIN,
President.

BERNARD L. GLADIEUX,
Chairman, Executive Committee.

POLLUTION

Mr. HOLLINGS. Mr. President, as chairman of the Subcommittee on Oceans and Atmosphere I have become increasingly aware of the horror of pollution. Our Nation's lakes and waterways are becoming unusable, wildlife is being destroyed, and the water shortages throughout the country are receiving national concern. We have a responsibility to reverse the dangerous actions which man has perpetrated on his environment for the past generations. I commend to the Senate the concurrent resolution of the South Carolina General Assembly, and ask unanimous consent that it be printed in the RECORD.

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

CONCURRENT RESOLUTION

Memorializing Congress to enact legislation to prohibit the Savannah District Army Corps of Engineers from permitting the dumping of sewage in Lake Hartwell in in South Carolina

Whereas, the Savannah District of Army Corps of Engineers has received an application from a firm in Anderson, South Carolina to permit it to construct and maintain a discharge line which will discharge treated effluents from a holding pond into Lake Hartwell near where U.S. Highway 76 crosses Six and Twenty Mile Creek; and

Whereas, the application if granted would permit concern to dump eight thousand gallons of treated sewage a day into the Six and Twenty Mile Creek channel of Lake Hartwell;

Whereas, Lake Hartwell has been developed as a residential area and as an outstanding recreational spa attracting many thousands annually to its shore to indulge in such water sports as swimming, water skiing, boating and fishing; and

Whereas, the dumping of sewage whether treated or not presents a threat to the health and safety of residents in the vicinity and the many users of the facilities of Lake Hartwell. Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

That the Congress of the United States is hereby memorialized to enact such legislation as may be necessary to prohibit the Savannah District Corps of Army Engineers from approving a proposal to permit the dumping of sewage in Lake Hartwell in South Carolina.

Be it further resolved that copies of this Resolution be forwarded to the Clerk of the United States Senate, to the Clerk of the United States House of Representatives and to each member of Congress from South Carolina.

DOT ADMITS USING TAXPAYER FUNDS TO PROMOTE SST AMONG GRADE-SCHOOL CHILDREN

Mr. PROXMIRE. Mr. President, a few weeks ago I wrote to the Department of Transportation requesting information about a booklet that DOT has been distributing to the Nation's schools. The booklet is entitled "SST-T-T—Sound, Sense, Today, Tomorrow, Thereafter." The distribution of this booklet has been underway for quite some time, as part of the Department's aviation education program.

The booklet is little more than an attempt to propagandize our children as to the virtues of the SST. It minimizes—indeed, almost dismisses—the problem of the sonic boom. It makes no reference whatsoever to other environmental problems, such as excessive sideline noise or upper atmospheric pollution. It praises the virtue of speed to the hilt—but without mentioning that fewer than 3 percent of us might ever be able to take advantage of it.

The booklet's adventure stories are geared in the same direction. Children are introduced to "The Supersonic Pussycat"—the lucky pet that gets to fly to Paris in 2½ hours; to "Deci Belle"—who was attracted to any noise, "the louder the better"; to "Maxwell the Mouse," "Shaky the Helicopter," and other unforgettable characters. There is a teacher's manual accompanying these stories, suggesting exercises which can excite interest in supersonic flight.

Mr. President, my letter to Secretary of Transportation sought information as to the cost of the booklet, its date of printing, the number of copies distributed, and the authorization for the expenditure.

Secretary Volpe's response was sent last Friday. His letter indicates that the project cost the taxpayer $12,800; that 50,000 copies of the booklet were printed; that the booklet is still in active use; and that the money came out of the printing allocation for DOT and FAA.

Mr. President, I can see absolutely no justification for this type of expenditure—however small it may be. This type of blatant propaganda, distributed to children who cannot see through it, would be questionable even if it were financed by private funds. But it is doubly reprehensible to have the Federal taxpayer finance it.

Congress has not, I hope, lost the power to control such expenditures. When the DOT appropriation for fiscal year 1972 comes before the Senate Appropriations Committee, this Senator intends to pursue this matter further. I just cannot see how we can permit this kind of propagandizing by the Federal Government to continue.

Mr. President, I ask unanimous consent that the response from Secretary Volpe, dated June 18, 1971, be printed in the RECORD. My original letter to Secretary Volpe already appears in the CONGRESSIONAL RECORD of June 4, 1971, at page 18129.

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

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., June 18, 1971.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: In reply to your letter of June 2, 1971, this is one of many publications we have available to aid us in the promotion of aviation which is authorized by the Federal Aviation Act. The project grew out of a request by educators to have material developed which could be used for ". . . Aviation Education Materials For Grades K–6 In The Areas Of Aviation Noise And Sonic Boom."

In answer to the six questions you raised:

(1) The booklet was produced through normal government printing channels using funds appropriated for the purpose of conducting Department of Transportation (DOT), Federal Aviation Administration (FAA) programs. More precisely, the publication was a part of DOT's Interagency Aircraft Noise Abatement Program under the aegis of the Information Education Committee of the group. The legislative authorization and appropriation was the regular printing allocation of the then DOT, FAA budget.

(2) The costs fall in two major categories: the actual contract for the production of the original material was $5,021.00; the actual printing cost amounted to $7,871.42.

(3) The first and only printing was completed on July 1, 1969.

(4) There were 50,000 copies of the booklet printed.

(5) The booklets were distributed to the then various FAA regions, area managers and educators, both in public and private schools, and those in colleges and universities who conduct teacher training sessions.

(6) The publication is still used.

I trust this satisfactorily answers the questions you raised.

Sincerely,

JOHN A. VOLPE.

SENATOR HUMPHREY'S SPEECH TO THE NATIONAL CONFERENCE OF MAYORS

Mr. HUMPHREY. Mr. President, on June 14 I had the high honor and privilege of delivering the keynote address to the Conference of Mayors annual meeting in Philadelphia, Pa.

In the speech, I advocated that the United States should adopt a national urban strategy—a plan of action that pinpoints the choices and values we as a nation must embrace if we are to solve the problems of the cities. I suggested that five key points of a national urban strategy are fiscal vitality, social progress, environmental quality, urban peace, and balanced national growth.

Although I believe that each of these topics is a major subject in itself, I focused my attention on fiscal vitality and social progress.

Mr. President, I ask unanimous consent that the text of my remarks be printed in the RECORD.

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

REMARKS BY SENATOR HUBERT H. HUMPHREY, 1971 CONFERENCE OF MAYORS

The accepted principles of oratorical practice call for the keynoter to set the tone and style of the convention. His speech is supposed to provide the focus for discussion and inspire other speakers to rise to even greater rhetorical glories.

I am not certain that my speech will accomplish that or whether I want it to.

But I am certain that I want to have a hand in setting the tone of this conference.

And, I can think of no better way to do it than to state here and now, flatly and unequivocally, I am one Democrat who *favors Federal Revenue Sharing.*

The cities need the money.

The country needs revenue sharing.

And I will fight for it.

I am not going to speak to you about the city of yesterday.

I want to talk about today—today's government, today's cities and today's people and problems—and what kind of cities we can have tomorrow, if we begin now.

Unless we do something to solve the problems of today, there will be no cities tomorrow. They will instead be islands of despair and conflict.

For those of us who love cities, who believe that cities are more than mortar and bricks and concrete and steel, the urban condition is frustrating and disillusioning.

The city is a paradox.

We know that many parts of the city are beautiful.

We have green parks, tree-lined roads, expansive lawns, well-kept homes, great libraries, recreation areas, theatres, and cultural centers. At its best the city gives us a sense of excitement and a "sense of the possible."

We also know that there is another part of urban America. It is neither pleasant nor pretty.

This is the city of crime, of blight, of slums, and of people with crushed spirits.

And nothing we do seems to help.

We have tried many tactics, many programs.

Yet, ghettos and barrios swell with the crying pain of too many people, not enough space, and a style of life that robs man of dignity, hope and opportunity.

Businesses and white residents move out of the city, while the poor, the unskilled and the welfare clients move in.

The tax base is reduced.

Schools are poorest where they should be the best.

Our programs have not matched our expectations because we have not succeeded in identifying the needs of the poor with the needs of the non-poor.

We have not yet convinced the middle-income taxpayer that when *some* of the people are denied good health care and education and jobs, it affects *all* of the people.

What we need are good schools—not only for the poor but for everyone.

What we need are good hospitals—for everyone.

What we need is good housing, not only for the poor, not only for the affluent, but for everyone.

We are not going to get them until we recognize that the problems of urbanization will yield only to national policy decisions that reallocate our resources and define a clear *National Urban Strategy for our Cities.*

What do I mean by National Urban Strategy?

I mean a policy that marks the values and choices we as a Nation must embrace if we are to meet the needs of the people.

It is a plan of action backed by money, leadership, and political commitment.

It is for our cities what the Marshall Plan was for Europe.

And it is much more:

It is the willingness to preserve—to stop studying what is to be done and start doing what needs doing.

I believe there are five essentials of a National Urban Strategy: *Fiscal Vitality, Social Progress, Environmental Quality, Urban Peace, and Balanced Growth.*

I have talked with you in previous years about urban peace and about my proposals for councils of civil peace. I hope to talk to you another day about environmental quality and balanced growth.

Today, I want to talk about today's priorities: Fiscal vitality and social progress.

FIRST, FISCAL VITALITY

I understand that the mayors had a meeting on city finances with Vice President Agnew.

At the end of the conference, the Vice President reportedly turned to an associate and said: "If you've heard one mayor, you've heard them all."

Well, hardly—but when it comes to the matter of city finances—he may be right. How's that for being bipartisan?

We all agree we will never be able to provide the housing, the education, the basic services to people unless we solve the dollar shortage first.

Your cities need hard cash, and they need it now.

And they will need more in the future.

Listen to these projections:

State and local governments will need $150 billion in fiscal year 1975 for all their programs.

Education by 1975 will require $55 billion; $17 billion will be needed for highways.

Police and fire protection will cost another $10 billion.

Where are we going to get this money? How are we going to meet this demand?

I propose an eight-point fiscal program for the cities.

Number one: the economy

We need a healthy, booming economy.

This Nation's economy is floundering badly, and all of us know it.

It does not produce the revenues we need—it produces unemployment.

It does not produce adequate growth—it produces inflation.

By the end of the year, this recession will cost State and local governments $6 billion in lost revenues. It will cost the Federal Government over $30 billion.

It will cost the economy over $150 billion.

Here is a startling fact that has received too little notice: From 1961 to 1969, the number of people classified as being in poverty decreased 5 per cent per year.

In 1969–70, the number of people in poverty increased 5 per cent.

We must reject the economic "nonpolicy" that has created these statistics. The people must be the beneficiaries of a healthy economy, rather than the victims of an economy of recession.

No. two: Revenue sharing

We can and we must enact revenue sharing now.

I recognize that it is not a panacea. I recognize, too, that to be effective, the amount of fiscal relief must be greater than the $5 billion proposed by the Administration.

But I urge both the Congress and the Administration to put aside partisanship and individual pride of authorship to pass an acceptable revenue sharing bill at this session.

I believe that an equitable revenue sharing bill should have a pass-through formula that guarantees cities their fair share. It should be based on need as well as size.

The bill should also contain a plan for the modernization of local and state governments. And, it should provide incentives for governments to adopt a progressive, rather than regressive tax system. That is what I intend to work for.

Still, revenue sharing is only part of the required package.

It ought not be oversold as a cure-all.

It is at best an economic blood transfusion for local governments that are suffering from severe economic anemia.

But we need that transfusion now.

Number Three: National Domestic Development Bank

We can and must enact the National Domestic Development Bank—legislation I recently introduced to help cities, states, and towns finance vitally needed public projects.

This legislation is based on accepted principles of international finance. I propose that we now apply them at home by providing long-term loans at low interest rates, and that we couple the financial help with technical assistance.

My plan will allow cities, counties, towns, school districts and other government jurisdictions to move ahead on a wide range of urgently needed public construction.

It will provide an alternative and supplemental source of funds for new schools . . . for medical and hospital centers . . . for police and fire training facilities . . . for day care centers . . . parks . . . waste disposal centers . . . museums and cultural centers . . . parks and playgrounds . . . mass transit systems . . . adult education facilities . . . and much more.

It can help end the stop-start history of public construction in this country by providing for an orderly and continuing new financing mechanism.

The National Domestic Development Bank is a program for all the communities of America.

It can facilitate economic development in depressed areas.

It can provide jobs.

It can stimulate the economy.

It can help promote better balanced rural-urban growth.

And, it can remove the reliance of local governments on the ever-increasing property tax.

We have become a Nation that is privately wealthy but publicly poor. I believe this legislation can help redress that imbalance.

We have used this approach successfully overseas through such institutions as the World Bank.

I say that if we can help build a better Rio de Janiero, we can help build a better Philadelphia, or Detroit, or Chicago, or New York, or Chattanooga, Tennessee.

Number four: Categorical grants

We should fully fund the categorical grant-in-aid programs. And we should unfreeze the billions of dollars of program money, which the Congress has appropriated, but which the Administration has insisted on tying up.

We should demand that the President release these impounded funds now.

Number five: Block grants

We should pass a series of block grants to be used for specific purposes but with a significant percentage of the total money available for local discretionary use.

We can maintain a Federal presence and still allow you as mayors the flexibility to spend this money consistent with your local needs—and you know those needs better than anyone.

Number six: Welfare

We can and must federalize the cost of welfare. And, we can make a major effort this year.

We can and must encourage States which save money from reduced public assistance expenses to return a portion of that savings to the cities.

Welfare is a national problem; it demands national answers and national financing.

Number seven: Highways

We should open up the highway trust fund to the cities—to pave city streets and to build new streets, to create parking areas, and to help finance maintenance.

We must end the fiction that the streets of a city are separate and apart from highways. They are an integral part of our transportation circulatory system, and it is time that we recognized that fact.

Number eight: Tax reform

We can and must reform the tax system.

We should de-emphasize the regressive sales and property tax and emphasize more equitable local and State income tax.

This reform will not be easy. Methods of financing change slowly, and people do not eagerly embrace income taxes.

But, look what happens if we do not change our local tax structures:

Sales taxes in fiscal 1975 will yield some $28 billion.

Property taxes will account for some $39 billion.

Income taxes, on the other hand, will bring in only $10 billion.

And, corporate taxes will produce only $3.7 billion.

In other words, those least able to pay will be asked to shoulder most of the tax load.

We must have a more equitable tax structure and one that will enable the states to share with the cities.

The second essential of a National Urban Strategy is social progress.

Money is crucial. But we also need a strategy of allocating that money to improve the quality of life for all our people.

Among other things, social progress means suitable employment and the opportunity to advance in one's work.

It means we must strive to provide a national floor of basic services for every citizen in the United States.

We are a highly mobile society. Almost 20 per cent of our population is on the move every year.

We must guarantee all Americans, no matter where they live, basic services and basic standards. Clean and well-lit streets, garbage collection, adequate public safety, and other basic services are matters of right for every American.

The cities have the manpower to make good on this guarantee. The Federal government must help supply the resources.

Social progress also means an adequate welfare system for those who need assistance.

Social progress means schools—good schools. It means quality education. And, it means a substantial increase in federal funds for education.

It means advancing on all these fronts, not retreat.

Social progress means a nation-wide system of health and dental care.

It means more hospitals, neighborhood health centers close to the people, and more medical manpower.

And it means much more emphasis on preventive care.

Social progress means day care facilities for the children of working mothers.

Social progress means racial peace. It means respect for our individual differences. And, it means a continuing effort in both public and private life to erase injustice and discrimination and inequality of opportunity.

Social progress means a concerted attack, led by the Federal Government against drug abuse and drug addiction.

Drugs cost the cities untold billions of dollars in crime. And the human cost cannot be calculated.

In Washington alone, drug related crime totals $450 million.

In New York City, the cost is about $2 billion.

Even more frightening is this fact. In the last eight years, drug abuse killed more people in New York City than the entire State of New York lost in the Vietnam War.

Yet the Federal Government spends a pittance on drug control.

I believe we must consolidate and strengthen all our activities relating to the control of drugs and the rehabilitation of drug users and addicts. I intend to introduce legislation to create a Drug Cure and Control Authority that would do just that.

I recommend an emergency appropriation to deal with the drug problem faced by Vietnam veterans.

And I call on the President to convene an immediate White House Conference on Drug Control.

Many agencies must join in the fight against the growing drug epidemic.

If the CIA can find a saboteur, then it can find a drug smuggler. If the FBI can ferret out subversives, it can find the drug pushers.

The Food and Drug Administration, the Bureau of Narcotics, the Customs Bureau—all resources of the Federal government should join now in a major offensive against the menace of drug abuse and addiction.

We should obtain international agreements that will stop the flow of heroin into this country from abroad.

And if we cannot negotiate agreements, then we must apply strong sanctions to dry up the illegal entry of drugs—sanctions that would include the withdrawal of all U.S. assistance.

No nation can be a true friend and ally if it contributes to the poisoning of our people.

Drug traffic is murder on the installment plan. It must be stopped.

Finally, social progress means civil peace.

No one can be secure where there is violence, crime, and disorder.

The first responsibility of government is to preserve and protect life. And, we must do so within the constitutional guarantees of due process.

Every citizen must be able to live in peace, think in peace, do business in peace, and feel secure in his residence.

The program I have outlined will require planning and determined political leadership. It will also require money.

But it will cost more not to do it than to do it.

I am convinced that we have the tools to do the job. We have the know-how. We have the manpower. And we have the resources and the wealth, if we will use them well.

We can start by closing tax loopholes and finding more equitable ways to raise money.

And we can start by challenging our fiscal priorities: Do we need $80 billion for the Pentagon?

I say no.

National security is not merely a matter of troops and weapons. Security ultimately lies in our people. It lies in the political and economic health of the Nation and in cities that are alive and growing, not sick and dying.

The people and their well-being is the solid base of the real security we must build.

Four years ago, a Presidential commission concluded that "This Nation is moving towards two societies—one black and one white—separate and unequal."

Since then, we have come to realize that not all of our urban problems are racial.

We know now that there are problems of political organization, of social institutions, of community services, and financial resources.

We know now that urban problems are as intricate as they are disturbing. And, as diverse as they are agonizing.

We know now that we must have a National Urban Strategy if we are to build the kind of cities that we must have—cities that are rich and rewarding places in which to live and work and raise children.

If we do not act now, we can forget such lofty concepts as "national greatness," "New American Revolutions," "brotherhood" and "driving dreams," for the dreams will turn into nightmares.

Can we as a Nation build great cities?

Can we make it?

I am an optimist. I believe we can.

I believe we can reach what Cotton Mather called the "Heavenly City"—a city to be inhabited by an innumerable Company of Angels and by the Spirits of Just Men."

AMERICAN-VIETNAMESE WAR CHILDREN

Mr. MOSS. Mr. President, last week I introduced a bill to provide for the care, in the United States, of children of unwed Vietnamese mothers and American fathers—S. 2017.

These children are a tragic byproduct of the war—recognized by neither the U.S. Government, nor the Vietnamese Government.

Most of them face a bleak future. Their illegitimacy is a stain, just as it is in other places. But they also bear the stigma of mixed blood—of being half-Caucasian or half-Negro. In some levels of Vietnamese society this mixed blood will make them virtually an outcast—the child with Negro blood will have a particularly difficult time, I am told.

I have now been advised of some of the results of the recent Defense Department survey of children fathered illegitimately by U.S. soldiers in Vietnam. The survey found 5,400 children who could be identified as fitting into this category. Some 400 have been abandoned and are in orphanages. The remainder are scattered throughout the country, living with their mothers or other relatives.

I have also discussed the plight of these children with officials of the State Department, and I was given approximately the same numbers from their sources. The State Department indicates that some money is going from the U.S. Government to the South Vietnamese Government to support the orphanages under the general classification of aid to "war victims."

My bill would bring those who are orphans to the United States where they could be either adopted, or be cared for and educated. The bill also provides that if a Vietnamese mother voluntarily decides to give up claims to a child, it can also be brought here to be adopted or cared for.

The French Government, which in 1954–55 undertook the same kind of program I am proposing, found that there were 5,000 children who were in need of care, or whose mothers gave up their custody, and who were eventually moved to France.

The American-Vietnamese child is the result of U.S. involvement in the affairs of Vietnam, and therefore, we all bear some responsibility for their care. They are half-American, and if they are not wanted or accepted in Vietnam, we should give them the opportunity to live a better life here.

There are also many other orphans in Vietnam whom we may want to help. The DOD survey indicates that there are a total of 18,000 small children now living in the 120 orphanages recognized by the Vietnamese Government, and that a great majority of these children are orphans. Many have been orphaned because their families were killed by American gunfire. This is something we can never forget.

There are many ramifications of the Vietnamese orphan problem, and I have asked Senator EASTLAND, chairman of the Judiciary Committee, to whom S. 2017 has been referred, and who chairs, also, the Immigration Subcommittee, to schedule hearings on the bill so we can begin to get a perspective on the problem, and see what America can and should do about it.

REVENUE SHARING

Mr. HOLLINGS. Mr. President, revenue sharing is a topic which has generated a great deal of discussion as well as several legislative proposals. By resolution dated June 16, 1971, the House of Representatives of the State of South Carolina has called to the attention of Congress the essential fact that any legislation passed relative to revenue sharing must include funds to States, counties, and small municipalities. It is their feeling that disproportionate amounts should not be allocated to large municipalities to the exclusion of the other subdivisions of government.

I ask unanimous consent that the text of the concurrent resolution passed by the South Carolina House of Representatives be printed in the RECORD.

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

CONCURRENT RESOLUTION

Memorializing Congress of the United States to include in any legislation passed relative to "revenue sharing" the States, counties and small municipalities

Whereas, legislation is pending in the United States House of Representatives to provide for revenue sharing between the federal government and various subdivisions of government; and

Whereas, it is believed that the chairman of the Ways and Means Committee, Representative Mills, is attempting to provide for revenue sharing only between the federal government and middle to large size municipalities to the exclusion of the states of the United States, counties within such states and small municipalities; and

Whereas, it is the sense of the General Assembly that revenue sharing will be beneficial to those governments and subdivisions of government which it is contemplated may be excluded from the plan. Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

That the Congress of the United States is hereby memorialized to include in any legislation passed relative to revenue sharing states, counties and small municipalities.

Be it further resolved that a copy of this resolution be forwarded to both United States Senators and each member of the House of Representatives from South Carolina and to Representative Mills, Chairman of the Ways and Means Committee of the House of Representatives.

ADMINISTRATION'S ECONOMIC POLICY LACKS CREDIBILITY

Mr. PROXMIRE. Mr. President, the economy's recovery from the 1969–1970 recession has been the most overpromised one in recent memory. Whenever an unfavorable price or employment statistic has been released, the administration has cautioned the public about placing too much importance in 1 month's data. However, if an indicator of economic activity has been even slightly favorable, the President and his economic advisers have hailed it as a turning point in the economy or as solid evidence that conditions are improving.

Any administration has a tendency to emphasize the good and minimize the unfavorable statistics. What is of more serious concern to both the Congress and the public now, however, is that the Nixon administration, in an attempt to paint a rosy economic picture, has actually muzzled the professionals within the Government who prepare economic data.

In March of this year, the administration canceled news conferences held by the career statisticians in the Bureau of Labor Statistics on price and unemployment statistics. Most observers have surmised that the reason for the abrupt cancellation of these press conferences is that the career officials gave an objective interpretation of the statistics at the same time that administration spokesmen were making highly optimistic statements that simply were not borne out by the facts.

The Joint Economic Committee has attempted to continue to make the interpretation of the BLS officials available to the public and the Congress, but we have had little cooperation from the administration. For the past 3 months the committee has invited the Labor Department's statisticians to testify at hearings on unemployment, but with little success.

Therefore, I have written to Secretary of Labor Hodgson asking him to appear before the committee when the June unemployment data are released, now scheduled for July 2. As I wrote to Secretary Hodgson:

I urge you to accept this invitation and I urge you to bring with you those members of your staff who can contribute to the presentation.

Mr. President, today the Wall Street Journal published an excellent article by Albert R. Hunt that documents the many instances where administration officials have interfered with the release of economic data by the career statisticians who have been responsible for it for the past 10 years. Mr. Hunt emphasizes that the administration "should realize that usually these shortcuts and gimmicks simply do not work."

Mr. President, I ask unanimous consent that Mr. Hunt's statement be placed in the RECORD at this point.

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

CREDIBILITY AND ECONOMIC POLICY

(By Albert R. Hunt)

WASHINGTON.—Treasury Secretary John B. Connally recently lambasted some of his fellow Democrats as "politically oriented economists who were once close to power and long to return."

The thrust of Mr. Connally's criticism, echoed privately by other Nixon administration aides, was that some eminent economists have been so tainted by political partisanship that their views are losing believeability. And it is true that some critics of the administration's policies plainly seem to have their eye more on the next presidential election than on the performance of the economy.

Yet it's interesting—and instructive—to examine the one who's throwing stones. For this administration is steadily building up a serious economic credibility problem of its own. The reason is that most administration spokesmen inevitably term any good economic figure a "turning point" or "solid evidence" of improving conditions, while adverse results are "statistically insignificant" or mere "aberrations."

Wholesale prices rise 0.3% in March and the Western White House trots out Labor Secretary James D. Hodgson to gloat that "our anti-inflationary fight is taking hold"; the same prices jump a steeper 0.5% a month later and the Washington White House produces Mr. Connally to caution reporters, "I don't think we ought to pay much attention to it." A 0.2% drop in the February unemployment rate shows the economy "is moving in a favorable direction," according to Mr. Hodgson; when the April jobless notes that a pickup in employment always lags behind other signs of an economic upturn and he suggests, therefore, that this increase isn't cause for concern.

SELF-FULFILLING

There is, of course, a reason for all this up-beat talk. The key to a sharp economic upturn, many government analysts believe, is convincing consumers that things are getting better so they'll step up spending. Thus, these optimistic pronouncements can serve as self-fulfilling prophecies, some officials argue.

But, as laudable as this goal may be, some of the methods currently employed certainly are less than desirable and sometimes seem downright counterproductive. Recently several high administration insiders have gone beyond simple rhetoric hyperbole and either outrightly misled the public or flagrantly violated some of their own guidelines.

The most publicized instance was the Labor Department's cancellation of the monthly press conference of its Bureau of Labor Statistics on the unemployment and consumer price figures. These briefings, conducted by nonpolitical technical experts, were terminated, the administration said, for two main reasons: to speed up the release of the data and to avoid subjecting BLS professionals to the "awkwardness" of answering questions "with policy implications." A factor in this decision, the White House said, was the 1962 report of the Gordon Committee on the use of government economic statistics.

But the chairman of that committee, University of California economics professor R. A. Gordon, later told the congressional Joint Economic Committee a different story. There was "nothing" in his report to suggest doing away with these briefings, the author of the study said, and he went on to proclaim a "real need" for these sessions. He further wondered if what the administration really wants isn't "to be free to minimize bad news and maximize good news without any interference from its own technical experts who know most about the facts."

Geoffrey Moore, the BLS commissioner, later admitted that he couldn't recall a single instance in which questions caused "awkwardness" for career officials. And both the unemployment and price figures are

now coming out almost at precisely the same time as before the briefings were canceled.

The actual catalyst for the cancellations, insiders admit, came when a BLS official said the 0.2% drop in the February jobless rate was only marginally significant (an observation borne out by the increase in the rate in every month since then), while at the same time Mr. Hodgson was heralding the importance of the drop. Yet, top officials haven't publicly acknowledged this factor.

(An irony here is that another of the administration's top economists. Under Secretary of the Treasury Charls E. Walker, earlier had implored television news to devote more attention to economics in order to increase general public understanding. Only a few months later those economic results most conducive to coverage by that medium—the BLS briefings, replete with charts and tables for visual effects—were eliminated.)

Another double standard concerns the administration's pledge not to politicize the release of statistics. In 1969, the Budget Bureau told all agencies that "an adequate amount of time" (generally agreed to mean 15 to 30 minutes) should elapse between the release of figures and any comment by a political appointee. Thus the actual release of the figures wouldn't be colored by political pronouncements, it was pointed out.

Nevertheless, in early February Mr. Hodgson held a briefing for reporters an hour *before* the revised December and new January unemployment figures were released. Later the BLS' Mr. Moore admitted this didn't "square" with the administration's stated policy and pledged it wouldn't "happen in the future." Yet about 10 minutes before the April consumer price report was issued, reporters were handed a statement from the Labor Secretary hailing the moderate 0.3% advance.

In another instance, President Nixon also directed all agencies to "speed up the implementation and dissemination" of all statistics. Although this dwelled on avoiding unnecessary delays, Arthur F. Burns, then counselor to the President, explained that the intent was "to discontinue manipulation of release dates for statistics." High administration officials were openly scornful of their predecessors' penchant for either speeding up or delaying the release of figures for political purposes.

But two months ago the Commerce Department suddenly rushed out at 6 o'clock Friday evening a report showing that housing starts had jumped an impressive 11% the month before. Since officials had confidently stated all day that this report wouldn't be out until the following week, could it be that the government was taking its directive seriously and even putting out good news at an unpropitious time.

Alas, no such luck. President Nixon was holding a news conference that evening and, according to informed officials, late Friday afternoon the White House ordered the Commerce Department to rush out the housing figures so the Chief Executive could hail the results that evening. Sure enough, when the first economic question came up the President glowingly alluded to the housing figures.

In another promotional effort in late April, White House Communications Director Herbert G. Klein sent an analysis to 1,300 newspaper editors and writers that noted how much money investors would have made if they had followed President Nixon's general advice to buy stocks in April 1970. Mr. Klein's analysis mentioned 10 specific securities.

This horrified even some of the administration's own economists. Besides giving the appearance of touting selected stocks, one top administration economist notes, Mr. Klein "just couldn't understand that he who lives by such swords can die by them too." With the Dow Jones Industrial Average generally declining since reaching a peak of about 950 in late April, Mr. Klein's tip service has been noticeably quiet.

As isolated instances, perhaps there's little reason to be unduly alarmed at any of these transgressions. But together, they add up to the makings of a real credibility problem that the Nixon people are creating for themselves.

1970: "A GOOD YEAR"?

They should realize that usually these shortcuts and gimmicks simply don't work. The next time the President repeats his confident assertion that this year "will be a good year for the economy" and that 1972 "will be a very good year," he might recall his own words at a March 1970 press conference. On the same subject and with equal confidence, he assured the nation that 1970 "is going to be a good year from an economic vantage point." Even most of the President's partisans now would agree this was hardly a self-fulfilling prophecy.

"One has to really produce things that are believable to affect consumers," says George Katona, director of the University of Michigan's Institute for Social Research, which studies consumer attitudes and behavior. "Mere talk won't do it."

To be sure, the temptation to exaggerate is probably endemic in any administration, particularly when the economy is such a terribly sensitive political issue. And few would expect the President or his lieutenants to proclaim that the economy is going to be in rotten shape.

But a little more candor about setbacks, as well as successes, and a willingness to resist the temptation to bend or break reasonable rules for very short-run gains, wouldn't seem to constitute a suicidal course. Indeed, there's apt to be a time, with November 1972 quickly approaching, when the administration will need all the economic believability it can muster.

ATTITUDES TOWARD TECHNOLOGICAL AND SCIENTIFIC ENDEAVORS

Mr. CHILES. Mr. President, with growing concern I have noted a developing trend in our country of hostility toward technological and scientific endeavors, particularly on the part of our younger people. This deeply disturbs me for there is certainly still a role—a vital role—in our lives for science and technology, and we are sadly deluding ourselves if we think for a moment that we can achieve high aspirations of ecological, social, and cultural achievement without the help, the contributions of these fields.

It is essential that we maintain a proper perspective if we are to have the national unity necessary to reach ambitious goals. We must be rational and considerate and have mutual respect for each others' viewpoints and efforts.

Recently, Dr. Wernher von Braun, Deputy Associate Administrator of the National Aeronautics and Space Administration and one of the greatest minds of our time, offered some definitive comment on this subject in a speech to the Washington chapter of the Aviation and Space Writers. In order that Senators may have the benefit of his ideas and comments, I ask unanimous consent that the text of his speech be printed in the RECORD.

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

ADDRESS BY DR. WERNHER VON BRAUN AT THE NATIONAL AVIATION CLUB, WASHINGTON, D.C., MAY 27, 1971

Today, instead of telling you more about the space program and NASA's plans for the future—everyone here is, I am sure, pretty much up to the ears in that topic—I'd like to say a few words about a problem that disturbs me and which I think concerns us all. I speak of the climate of irrational hostility that seems to be growing in this country—especially among our college and university students—regarding science and technology.

It is irrational precisely because those most vocal in their hostility toward science and technology are the very ones professing the greatest concern about poverty, poor housing, hunger, and the quality of the environment. All of these problems of society depend in varying degree upon our technological capabilities, and certainly on increased productivity, for their solutions. Some particularly environmental pollution, require advanced research into the nature of the environment and ecological interactions.

Now there is a chronic misunderstanding about science and technology on the public's part that I am afraid is growing, but which isn't altogether the public's fault. This concern the role that science and technology play in the development of society and the economy. There is, unfortunately, no visible link between scientific discovery about natural phenomena on the Moon, for example, and our everyday lives here on Earth. Yet, there are concepts and knowledge coming out of the Apollo explorations, and experiments with the rocks and dust brought back from the Moon, that offer the potential of improving agriculture and the treatment of disease, and as we learn more about interior of heavenly bodies may even help us in locating mineral resources here on Earth or predict earthquakes.

Most concepts and scientific knowledge take years from the time a scientist formulates them and they enter the technology until some no-nonsense pragmatist comes along and turns the idea or knowledge into a product and a flock of new jobs. By that time, everyone has forgotten, if it was known at all, that it was the scientist who started it in the first place. The interesting thing about this process is that the scientist is labeled "impractical" because he deals in theories and squiggly mathematical symbols.

Glenn Seaborg gave a very refreshing and frank talk at the National Press Club here in town last March on the subject of "Misunderstanding the Atom." It's too bad it wasn't widely published for it might have done much to clear the air of a lot of fuzzy thinking about cleaning up the environment and restoring the ecological balance.

What struck me most was that here was a scientist pushing hard on a pragmatic approach to solve the environmental problem and, at the same time, provide the abundant energy sources that society requires. He explored in depth all the alternatives proposed by those conservationists and environmentalists who want a kind of back-to-natural products movement to replace the "energy-intensive industries." As usual, Dr. Seaborg was lucid and highly rational.

No reasonable person could deny the validity of his position. But the trouble is, we are not dealing with a rational body of opinion. We face a militant, highly emotional, even fanatical segment of the population which has seized upon a valid and good cause, but which will accept no facts, no reasoning that run counter to its own fixed ideology. The anti-science/technology people are demanding that we pull the plug on modern civilization in the belief that somehow we shall all be better off in a more primitive state.

However, in primitive times, the major question for mankind was physical sur-

vival. It is not hard to guess the predictable fate of hundreds of millions of people who depend upon modern technology for the necessities of life. We have only to consider for a moment what we would do without electricity, permanently. Even the famous naturalist, Konrad Lorenz, has been warning student audiences that if they destroy our store of knowledge to make a "fresh" start, they will fall back not a few centuries, but several hundred thousand years. "If you make a clean sweep of things," he observes, "you won't go back to the Stone Age, because you are already there, but to well before the Stone Age."

But it isn't the young people, the students, who are really to blame for this attitude of hostility to science and technology. They are simply misguided by certain social philosophers, cultural historians, and the like, whose teachings and published works provide only a very lopsided view of science and technology pictured as causing the downfall of man.

When you teach impressionable and idealistic youth that the rational, logical, puritanical work approach to life is bankrupt, and that technology serves only to erode the quality of life, you are bound to ring responsive bells in many minds of a generation that has never known the deprivation, the want, and the poverty of some older generations.

When a historian and philosopher of Lewis Mumford's stature inveighs angrily and brilliantly against the "megamachine" of science and technology, and declares there can be no reform until the present "megatechnical wasteland" is destroyed, a revolutionary spirit is fanned among the young. The natural fires of rebellion we have all felt against "the system" or the "establishment" are now stoked by an eminent and respected "authority."

And when Arnold Toynbee, equally famous as historian and philosopher, asks whether "spacemanship folly" isn't also a crime because it wastes that "slender surplus product that man has succeeded in wringing out of nature within the past 5,000 years," he adds a moralistic fervor to the revolutionary spirit.

It does not matter that neither Toynbee nor anyone else has explained just what "slender surplus product" we are allegedly wasting. It is enough that we are accused of wasting it, because the point Toynbee wants to make is that spacemanship not only is a folly, it is also a crime against mankind.

It seems strange that America is about the only nation in the world where technology and science are held in such low repute. All the so-called "have-not" countries in Africa and Asia are straining their limited resources to gain what some of our students seem bent on destroying. The older European countries would give their eyeteeth to have our technological capabilities. The Soviets are especially envious, and frequently announce they will surpass the United States in production or some other field of technology. So far they have failed to do so.

The Mumfords, the Toynbees, the Charles Reiches, and others of similar persuasion, who are teaching the young suspicion and hatred of science and technology apparently do not realize the incalculable harm they may do to the very society they wish to preserve and spiritually enrich. If the ecology so many are deeply concerned about is in delicate balance, so also is society's economic health which can be upset or destroyed by a hostile ignorance, or a general loss of confidence and purpose.

The anti-science and anti-technology voices making blanket attacks on science and technology in the name of conservation, a clean environment, or improving the quality of human life, are doing the nation and all of us a great disservice. The problems they are rightly anxious and concerned about cannot be solved by a return-to-nature cult. That course leads only to disaster for multitudes of people.

Closely related to the general attacks on science and technology is the denigration of the space program among some persons. Mumford describes the space rocket as "the most futile in tangible and beneficial human results," and sees only that while man is indeed conquering space, the "megamachine" is carrying further its conquest of man. This is of a piece with Martin Van Buren's 1829 complaint to President Andrew Jackson bemoaning the evils of the railroad in which the carriages are pulled at "the enormous speed of 15 miles per hour by 'engines'," something the Almighty never intended for people.

Surprisingly—or perhaps, not so surprisingly—Mumford ignores the apparently limitless resources of knowledge that await man in space. Some of this knowledge, as we have just begun to learn, has great significance to man, to Earth environment, and to the ecology. We are learning of the relationships between Earth and Sun and their effects on our lives which could be learned in no other way save by means of the rocket and spacecraft. Nor does Mumford make an allowance for man's need to extend his intellectual horizons by physically exploring new worlds, no matter how barren and unfit for organic life, such as the Moon may be today. This kind of knowledge and intellectual broadening apparently is of little or no value in the eyes of social philosophers and historians preoccupied with man in the microcosm. They have not yet learned to visualize mankind extending into the macrocosm, or for the spiritual need to do so. The desire to know is more powerful than they may suppose. Pragmatism is a valuable, stabilizing human characteristic; but without imagination we would not be human, and as long as man exercises this precious faculty, he will not long be imprisoned in the successive shells the pragmatists try to enclose him in.

Those who look upon science and technology as a megamachine that dominates their lives and hold them in thrall to a strictly programmed existence have their own special hang-ups. There is another view, and it was expressed by Glenn Seaborg:

"The difference is . . . a positive outlook, some imagination, and the desire to put science and technology to work more creatively."

GROWING OF MARIHUANA AND DRUG PRODUCING PLANTS ON LANDS RECEIVING AGRICULTURE SUPPORT PAYMENTS

Mr. McINTYRE. Mr. President, our Nation has undertaken a massive effort to reduce drug use in this country.

The drug problem has become epidemic and has brought about a national crisis.

The President of the United States has proposed a far reaching and expensive program to deal with this problem. I applaud him for moving forward to meet this crisis and will support what he is proposing although I am not sure even his overall program goes far enough.

Congress has not been idle. Much legislation has been passed and much important and needed legislation is currently being considered by Congress.

I am proud to be sponsoring drug legislation which would assist in cutting off assistance to foreign countries until such time as they cut off the production of drug producing plants and the export of these drug sources for heroin into the international drug market.

I have joined in introducing legislation to put tighter controls on amphetamine-speed drugs.

A large number of Members are working to assist servicemen who have acquired the drug habit while in service. I have joined in sponsoring legislation to provide special assistance to veterans who have been discharged but still are fighting to "kick the habit."

Many other proposals are also under consideration.

There is one area of this matter of drugs which has concerned me and about which I do not feel enough has been done. There are reportedly thousands of acres of marihuana and other drug-producing plants being grown in this country. Many of these plants grow wild along roadsides and in unused fields. In many instances these drugs are unrecognized and unused but the evidence increases that they are being harvested in too many cases and are finding their way into the drug market.

In other cases it is known that the drug plant is growing in a particular field and apparently it is known that use is being made of the plant but nothing is done about it by the owner of the land. This has become quite serious in some areas, particularly in the Midwest.

Mr. President, we will never solve the drug problem until we dry up the source of supply. This is one source of supply we must cut off and we must act to do so.

I was pleased to note that the House of Representatives yesterday amended the Agriculture Department appropriations bill, H.R. 9270, to cut off any agriculture production payments to any person, persons, or corporations who knowingly grow or permit to be grown marihuana, or any other prohibited drug-producing plants on land controlled or owned by them. I compliment Representative DAN ROSTENKOWSKI for the leadership he took in the House in introducing this amendment and carrying it through to passage.

At the same time, Mr. President, I want to announce now that I will propose the same amendment in the Senate and will work to achieve its adoption.

We must cut off the source of our drug supply.

DOES THE SENATE SUPPORT EQUAL POLITICAL RIGHTS FOR WOMEN?

Mr. PROXMIRE. Mr. President, does the Senate believe women are entitled to vote in all elections on equal terms with men, without any discrimination? Does the Senate consider women eligible for election to all publicly elected bodies, established by national law, on equal terms with men, without any discrimination? Does the Senate support the right of women to hold public office and to exercise all public functions, established by national law, on equal terms with men, without any discrimination?

These political rights for women are guaranteed by the Constitution. But women in other nations do not neces-

sarily have these guarantees. They are often denied the right to vote or to hold office because of their sex. Surely the Senate does not support such discrimination wherever it occurs.

Ratification of the Convention on the Political Rights of Women would not change our laws. It simply would reaffirm a basic constitutional guarantee.

Mr. President, the Nation has nothing to lose by ratifying this Convention. But the Nation has much to gain.

The Senate should reaffirm America's moral leadership by ratifying the Convention on the Political Rights of Women and the other human rights conventions.

DO OUR LEADERS STILL TRUST THE PEOPLE?

Mr. HARTKE. Mr. President, the high respect in which the majority of Americans hold our Federal Government is a good thing. Our Government has served us well. However, our reverence for what is right in our National Government should not—must not—blind us to its faults. Chief among these failings is the gathering tendency on the part of our leaders to distrust the basic wisdom and understanding of the American people. This tendency if allowed to grow in strength will most certainly destroy our system of government. By definition, a nation in which the supreme power is not retained by the people is not a democracy.

In an interview aired last night on CBS, Daniel Ellsberg charged that his study of the Pentagon papers disclosed that our leaders held the American people in as much contempt as they did our Vietnamese allies. In their view the American people were not competent to determine their country's course of action in Southeast Asia and that that decision must be left solely in the hands of the leadership elite. I find this view both wrong and terribly disturbing in its implications. James Reston apparently shares his disquiet and voices it eloquently in his column appearing in yesterday's New York Times, entitled "Who Elected the Times?" In his column, Mr. Reston quotes a portion of a statement made by Walter Lippmann more than a decade ago in which he cautioned his audience not to trust our Government on the basis that our leaders must surely know better than the people what is good for the country. For if you go too far with that argument, "you will be showing how ridiculous it is that we live in a republic under a democratic system, and that anyone should be allowed to vote."

Mr. President, I ask unanimous consent that Mr. Reston's column containing the predictably incisive comments of Walter Lippmann be printed in the RECORD.

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

WHO ELECTED THE TIMES?

(By James Reston)

The public reaction to the publication of the Pentagon Papers has been overwhelmingly on the side of the newspapers, but there is a strong and vehement view that it is wrong, dangerous and even criminal for a newspaper to assume responsibility for publishing private official documents without the consent of the Government.

Who, it is asked, elected The New York Times? How can outsiders judge better than the official insiders what damage may be done by publication of secret documents? By what right do newspapers presume to print official information which may embarrass the Government and give comfort to the enemy?

These are serious questions which deserve serious answers, for it is clear that the publication of the Pentagon Papers *has* embarrassed the Government, disclosed evidence of official deception, and in the process provided Hanoi, Moscow and Peking with material for anti-American propaganda.

At first glance, it is a devastating indictment, but should documents not be published because they embarrass the Government? Nobody is arguing that newspapers have the right to publish the nation's war plans or troop movements, or anything else that would endanger the lives of the men in the American expeditionary force, but historical documents? Evidence that the Congress and the people were misled years ago—even if this embarrasses the Government and provides propaganda for the enemy? This is clearly another matter.

After all, every time Mike Mansfield, the opposition leader in the Senate, calls on the Government to end the war by a date certain, or any newspaper or preacher or group of citizens condemns the bombing or questions the loss of life or the diversion of resources, or what the war is doing to divide and weaken the nation—all this is picked up by our adversaries and used against the United States.

Should we then suppress the documents because they "embarrass" the Government? Deceive the people about the record of the war? Submit to the Government's argument that publication will cause "irreparable injury" to the national defense rather than "irreparable injury" to the nation's reputation for fair dealing and plain and honest speaking to the Congress and the people? Confuse "embarrassment" to the Government and its officials with the security of the Republic?

In the absence of clear evidence that publication of these old documents is truly a threat to the defenses of the nation—which the Government has not provided—these are good political but bad philosophical and historical questions. Still, they are being raised by influential men and they come closer to the Marxist view of the press—that it should be a servant of the government—than to the American view of the press as defined in the First Amendment . . . facts relating to the past, as distinguished from dangerous military information affecting the present or future on the ground that this may be awkward. This comes close to Nikolai Lenin's view of the press.

"Why should freedom of speech and freedom of press be allowed?" he asked in 1920. "Why should a government which is doing what it believes to be right allow itself to be criticized? It would not allow opposition by lethal weapons. Ideas are much more lethal than guns. Why should any man be allowed to buy a printing press and disseminate pernicious opinions calculated to embarrass the government?"

Well, many men who oppose publication of the Pentagon Papers don't go this far, but the violent opponents of publication, like Herbert Rainwater, the national commander of the Veterans of Foreign Wars, who is crying "treason," come very close to the Lenin thesis that opposition to the Government is unpatriotic or worse.

It is true that newspaper editors, raised in the American tradition of "publish and be damned," do not always know what damage they may do to the diplomatic process by publishing official documents. Their information is limited, and no doubt the official insiders know more than the outsiders, but even this is a dubious argument.

As Walter Lippmann wrote many years ago, you had better be careful not to go too far with the "insiders" argument. "For if you go on," he told the National Press Club in Washington on his 70th birthday in 1960, "you will be showing how ridiculous it is that we live in a republic under a democratic system, and that anyone should be allowed to vote.

"You will be denouncing the principle of democracy itself, which asserts that the outsiders shall be sovereign over the insiders. For you will be showing that the people since they are ignoramuses, because they are outsiders, are therefore incapable of governing themselves.

"If the country is to be governed with the consent of the governed, then the governed must arrive at opinions about what their governors want them to consent to. . . . Here we correspondents perform an essential service. In some field of interest, we make it our business to find out what is going on under the surface and beyond the horizon. . . .

"In this we do what every sovereign citizen is supposed to do, but has not the time or the interest to do for himself. This is our job. It is no mean calling. We have a right to be proud of it, and to be glad that it is our work."

DATING OF PERISHABLE INFANT FOOD PRODUCTS

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the following article by Edward J. Gorin, which appeared in the Bergen Record on June 16, 1971, be printed in the RECORD. Mr. Gorin's excellent research and lucid reporting on the problem of coding of baby formula points up the urgent need for remedial legislation. As a cosponsor of S. 2079, which calls for the label of all perishable or semiperishable food products to bear a "pull date" after which the product has extended a safe "shelf life," I urge Senators to read the following article and lend their support to this important measure.

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

IF ONLY THE BEST WILL DO, READ THE CODE

(By Edward J. Gorin)

Some Bergen County retailers are selling old baby formula that should have been taken off shelves up to 3½ years ago.

Three of ten stores visited carried formula that was at least 18 months old.

Medical authorities warn that mothers are not receiving the vitamin potency they pay for in formula and other vitamin products which have been on shelves more than 18 months.

The Record sampling was prompted by a five-state Consumer Federation of America survey which found 57 per cent of stores sampled carried formula more than 1½ years old.

The Washington-based federation is urging the Food and Drug Administration to enforce removal of old formula, establish freshness standards, and require easy-to-read expiration dates on the cans and packages.

The states surveyed by the federation include Arizona, California, Illinois, Louisiana, and Oregon.

In the Grand Way store in East Paterson, a reporter bought two cans of formula called Lactum, a product of Mead Johnson Laboratories, that were in a dusty-covered display.

According to the code stamped on the bottom of each can, it was manufactured in June 1966 and is five years old this month.

After shaking a can according to package directions, it was opened and poured into a glass. The formula smelled cheesy, and was dark and filled with lumps.

When told of the aged Lactum, Harold Bogert, vice president of Grand Union in charge of grocery merchandising, said: "We will, of course, immediately remove it from sale and we will investigate how and why it got there."

Grand Way is a division of Grand Union.

John Bullock, division sales manager for Mead Johnson in Wayne, said Lactum hasn't been manufactured in two years. He confirmed the translation of the date code, but said the product is harmless.

"If it sits over a period of time there will be some darkening and fat separation, but the fat will mix in again if you shake it well," he said.

"It's completely safe," he said, "unless it has been subjected to extreme temperatures."

But age could cause some vitamin loss, Bullock said, and after two years might not meet the package guarantee of vitamin content. "Personally, I wouldn't want to use it after two years," he said.

Mead Johnson changes its packaging every 18 months or so, Bullock said, to keep fresh products on the shelves.

Martha Robinson of the Consumer Federation of America said an 18-month expiration date is suggested by the American Academy of Pediatrics.

After 18 months in a can, she quoted the academy, changes took place in ascorbic acid and the level of Vitamin C begins to drop.

Even though the change may not be felt until two years have elapsed, she said the academy told the federation, an 18-month period is all that can be guaranteed on the label.

Of the other stores visited by The Record, the Apothocary in Saddle Brook had cans of Mead Johnson's Enfamil that were 18 months old, and Genovese Drugs in Rochelle Park turned up one can of a product dated February 1969, nearly 2½ years old.

The manager of Genovese checked his code on the package and said it was delivered to the store in April 1970 from one of three distributors. He said he doesn't carry the product anymore.

At the Apothocary, manager David M. Book said he doesn't sell much Enfamil and it's possible the two he found that were nearing expiration have been in his stock since he opened 18 months ago.

He said he would return the cans to his distributor.

At Genovese, a carton of an open-dated product on the shelf said it expires in June 1971.

But in the drug section of Two Guys department store in Hackensack, cans of Borden's Mull-Soy showed five months of shelf life left and cans of Enfamil (Mead-Johnson) and Similac were good until next year.

MEANINGLESS DATES?

The Pathmark in Garfield had at least six months of shelf life on formula products stocked there, as did the A-Mart on State Street, Hackensack, the Fort Lee A&P on Lemoine Avenue, and drug stores in Fort Lee, Englewood, and Englewood Cliffs.

Mrs. Robinson, by phone from Washington, said she doesn't know what happens to a formula when it gets old. "That's the point," she said "The government has to find out and let us know.

"Even expiration dates are meaningless unless we know the age of the product. If there's no guideline about when a product spoils and a manufacturer can put any expiration date he wants on it, what's the point of an expiration date?" she said.

Bullock said Mead Johnson will begin putting an expiration date on its packages this fall. He said he thinks the date will represent 15 or 18 months after production.

WORLD FARM MEETING

Mr. McGOVERN. Mr. President, future historians may well note that one of the cruelest of ironies of the 20th century was that starvation was a very real factor in the daily lives of many inhabitants of the world at a time when overproduction of food caused others genuine concern.

The first way to do something about this situation is to bring some order out of the chaos of the international market. We must stabilize agricultural trading conditions between trading nations through international arrangements and agreements. We attempted to do so through the International Grains Arrangement. We failed because the administration violated that agreement by unilateral price cutting.

World farmers want to see a stable market, not only for their own benefit but because they are keenly aware of their obligations as citizens of the world. Recently, the International Federation of Agricultural Producers met in Paris only to hear that President Nixon had proposed a wheat treaty at odds with the needs of the world community.

One of the delegates to the meeting was Ben Radcliffe, president of the South Dakota Farmers Union. In his report of the meeting, Radcliffe calls attention to the needs of the many who are hungry and recounts the frustration farmers feel as a result of the failure to provide a stable international market.

Because his report, which appeared in the June 1970 Union Farmer, is so incisive, I ask unanimous consent that it be printed in the RECORD.

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

WORLD FARM MEETING

It is a sobering and almost awing experience to sit down with agricultural representatives of 40 nations from around the globe, to attempt to come to grips with problems that have plagued man on this earth for centuries; mainly overproduction and low farm prices in some sections of the world as opposed to food shortages and starvation in other areas.

Below are some observations at the closing session of the International Federation of Agricultural Products meeting in Paris, France which I was privileged to attend as an offical delegate:

In discussions that encompass agriculture from around the world, the problems of South Dakota farmers may seem very far away, but in the meetings of the 18th General Conference of the International Federation of Agricultural Producers in Paris, May 13 to 23, they seemed very close indeed.

The truth is that the problems of farmers nearly everywhere in the world are very similar. In fact, the central problem for most farmers in the world can be stated in three words: "low farm income." It is true of the farmers of the most developed nation in the world, the United States, and it is true of the farmers in the under-developed nations.

The delegation of the Farmers Union of the United States was headed by our national president, Tony Dechant. Also representing our organization besides myself were: George Stone, the president of the Oklahoma Farmers Union; Lewis Johnson, the president of the Arkansas Farmers Union, and Victor Ray of our Washington, D.C., office.

More than 40 nations and international organizations were represented. About two-thirds of the nations represented were the so-called "developing nations," and it is around the problems of these nations that much of the discussion ranged.

However, it is impossible to separate any of the problems of the nations of the world because they are all related.

Dr. A. H. Boerma, the director-general of the United Nations Food and Agriculture Organization, set out the problem before this conference in dramatic terms. He said "What do we have? On the one hand, there are vast regions where neither the land nor the waters of the earth are properly cultivated, where the majority of mankind is in one way or another badly fed, where the countryside is inhabited by millions of people living in extreme poverty and where most of them are unable to find work. On the other hand, there is a smaller part of the earth where it seems that far too much food is being produced, where governments are either actively paying farmers to cultivate less of their land or dispensing huge sums to keep up the prices of their overproduction, and where large numbers of people are dying from diseases at least partly brought on by over-eating. Could there be a more illogical pattern than that currently presented by the completely unbalanced situation of world agriculture and food consumption?"

Our national president, Tony Dechant, urged that the conference support the stepping up of "food for work" programs under which food is used in part to pay for work programs which stimulate the lagging economies of the developing nations.

The so-called "developed nations" have problems centering around the marketplace. Among the programs most strongly supported were those of international agreements and arrangements which stabilize trading conditions between nations. There is much interest in the new International Wheat Agreement, which is now in the process of being ratified by the U.S. Senate. Much dissatisfaction has been expressed here because this agreement lacks minimum and maximum prices, which were a part of the previous International Grains Arrangement. Roger Savary, the secretary-general of the IFAP, said in his opening statement to the conference that "our greatest disappointment" was that the agreement was "shorn of a good part of its substance." J. DeLeau, the president of IFAP and president of the French Committee for International Agricultural Relations, said bitterly that negotiations on the agreement were a "failure."

I participated in a conference with several of the members of the Canadian delegation, and they stated very flatly their dissatisfaction with the agreement. As a result of that conference, President Dechant and Lewis Johnson of Arkansas contacted Arkansas Senator J. William Fulbright, the chairman of the Senate Foreign Relations Committee, to ask that he support a "Sense of the Senate Resolution" which might send U.S. negotiators back to the conference table after the agreement is ratified in an effort to negotiate prices for wheat, as well as get activated a Prices Review Committee to make future adjustments.

One thing is quite clear. No nation can solve its farm problems within its own national boundaries. The world trade of agricultural commodities has internationalized our farm problems. The U.S. exports the commodities produced on one acre out of every four acres. The importance of this fact to the economic well being of American farmers is why Farmers Union must continue to participate in these world conferences until some of the basic world food and price problems are solved.

With 40 different nations involved, discussion is long and decisions come slow, but I am convinced that this kind of world dialogue is leading in the direction we must go to eventually solve our food distribution and farm income problems.

HILDA BRUNGOT—A DISTINGUISHED LEGISLATIVE RECORD

Mr. McINTYRE. Mr. President, rarely do I have the opportunity to share with my colleagues the story of anyone as remarkable as the New Hampshire General Court's venerable Republican legislator, Mrs. Hilda Brungot of Berlin, N.H.

Few legislators have contributed as much to our State. Few could exemplify as well the real meaning of the term "public servant."

The daughter of a Norwegian immigrant who himself served our State as a distinguished representative, Mrs. Brungot began her life in public service at 40 as a delegate to the New Hampshire Constitutional Convention in 1930.

That very same year she succeeded her father as a representative in the New Hampshire Legislature, beginning a record of service spanning 18 2-year terms, perhaps the longest legislative record of any woman in U.S. history.

Mrs. Brungot, now beyond her 80th birthday, could have chosen long ago to settle back into a less active role, but that would have wasted her valuable experience and insight. Instead she has found time to involve herself in a wide range of activities, and to this day few representatives in our State's legislature are more in evidence in committee and on the floor during important debates.

Mr. President, Mrs. Brungot grew up in more difficult times and was forced to quit school early in life and with stubborn Yankee independence educated herself. She was certainly successful, but just 4 years ago, at the age of 80, she took time out to formalize it all: she earned a high school diploma.

Mr. President, this mother of six and grandmother of many more has witnessed profound changes and momentous events during her years of service—the Great Depression, World War, the atomic age, and much more. Her perspective and youthful vigor is of great value, not only to her friends in the legislature, but to all who have come to know her.

As a New Hampshire citizen who greatly values her wisdom and greatly admires her steadfast dedication to the service of everyone in our State, I wish her well in the years ahead. May she serve our State and give us the benefit of her counsel for many years to come.

THE PENTAGON DOCUMENTS

Mr. McGOVERN. Mr. President, portions of the Pentagon documents concerning the development of American military involvement in Indochina are becoming available in various leading newspapers.

I believe that the full Pentagon report should be made available to the Congress and the public without further delay. In the absence of a decision by the administration to release the documents, I am attempting to insert in the CONGRESSIONAL RECORD those documents and summaries appearing in the press.

Today, I am submitting documents and summaries appearing in the Boston Globe of June 22. They show that covert action against North Vietnam was ordered as early as 1961. They show that Vietnamization has been with us since 1968, thus revealing just how great a failure this 3-year policy has been. After 3 years of trying, we still have not been able to Vietnamize the war. Of course, it is just as immoral to do that as it is to carry it on with American forces.

Mr. President, I ask unanimous consent that the articles and summaries from the Boston Globe be printed at this point in the RECORD.

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

SECRET PENTAGON DOCUMENTS BARE JFK ROLE IN VIETNAM WAR—KENNEDY OK'D COVERT ACTION

(By Robert Healy)

Gen. Maxwell Taylor in October of 1961 advised President Kennedy in an "eyes only for the President" cable to send 8000 man US military task force into South Vietnam but he warned that the introduction of such a force "may increase tensions and risk escalation into a major war in Asia."

Gen. Taylor was special adviser to President Kennedy on Vietnam.

At the time of the Taylor mission, which took him and Walt Rostow, later to be President Johnson's chief adviser on national security affairs, and a group of state and defense department officials to South Vietnam, the United States had about 1000 soldiers in South Vietnam. They served as advisers to the South Vietnamese Army.

President Kennedy stepped up covert actions against North Vietnam and increased the number of advisers to 16,000 men before he was assassinated in November of 1963. He never committed a United States ground unit as Taylor recommended.

These disclosures were made in a portion of a secret Pentagon study on the origins of the war in Vietnam started in 1967 by then Secretary of Defense Robert McNamara. They were made available to the Boston Globe yesterday.

For the first time the Globe was making public the role of the Kennedy administration in the escalation of the war. Three earlier reports dealing with other phases of the war were published by the New York Times and two by the Washington Post before publication was halted by court injunctions.

As early as May 11, 1961, President Kennedy, according to the secret report, had approved programs for covert action which had been recommended by a Vietnam Task Force. Among these actions were:

(1) Dispatch of agents into North Vietnam.

(2) Aerial resupply of agents in North Vietnam through the use of civilian mercenary air crews.

(3) Infiltration of special South Vietnam forces into Southeast Laos to locate and attack Communist bases and lines of communication.

(4) Formulation of "networks of resistance, covert bases and teams for sabotage and light harassment" inside North Vietnam.

(5) Conduct of overflights of North Vietnam for the purpose of dropping leaflets.

These covert actions which were approved by President Kennedy were contained, according to the Pentagon study, in a National Security Action Memorandum number 52.

About the time that the cable was received by President Kennedy, the President, according to the Pentagon study, directed (among other measures that we "initiate guerrilla ground action, including the use of US advisers if necessary" against Communist aerial resupply missions in the vicinity of Tchepone (Sepone, Laos).

"He also directed the Department of State to prepare to publish its White Paper on DRV (North Vietnam) responsibility for aggression in SVN (South Vietnam)," the study showed.

In the Pentagon study's evaluation of the two cables sent to President Kennedy by Taylor, it said that the impression Taylor's choice of language leaves is that the support forces "were essentially already agreed to by the President before Taylor left Washington, and consequently his detailed justification went only to the kind of forces on which a decision was yet to be made—that is, ground forces liable—to become involved in direct engagements with the Viet Cong."

In his first cable of the mission (Oct. 15 to Nov. 2, 1961) sent from Saigon, Taylor wrote the President and the top officials at State and Defense: "My view is that we should put in a task force consisting largely of logistical troops for the purpose of participating in flood relief and at the same time of providing a U.S. military presence in VN capable of assuring Diem (President Ngo Dinh Diem) of our readiness to join him in a military showdown with the Viet Cong or Viet Minh. To relate the introduction of these troops to the needs of flood relief seems to me to offer considerable advantages in VN and abroad. It gives a specific humanitarian task as the prime reason for the coming of our troops. . . ."

Despite the Taylor recommendations for a U.S. task force, there was no hint publicly at that time out of the White House that the President would go along.

Upon his return from Vietnam Taylor said to newsmen that President Diem had assets available "to prevail against the Communist threat."

President Kennedy on the subject of Vietnam and the Taylor mission at a press conference on Feb. 14, 1962, said that President Diem had asked for additional assistance. The administration, he said, had detailed the support which the Viet Minh in the North were giving to this Communist insurgent movement and we have increased our assistance there. And we are supplying logistical assistance, transportation assistance, training, and we have a number of Americans who are taking part in that effort."

Kennedy did not mention the Taylor recommendations for a U.S. task force or whether the United States was considering one.

TERROR AND CRISIS

Taylor in his cable to the President said that Viet Cong forces one tenth the size of the South Vietnamese Army regulars could create conditions of frustration and terror which was certain to lead to a political crisis.

In his list of specifics Taylor said that the US government should support the effort to stop the Viet Cong" with equipment and with military units and personnel to do those tasks which the Armed Forces of Vietnam cannot perform in time."

Taylor recommended the troop commitment despite full recognition of what he listed as disadvantages. Among these:

"A. The strategic reserve of US forces is presently so weak that we can ill afford any detachment of forces to a peripheral area of the Communist bloc where they will be pinned down for an uncertain duration.

"B. Although US prestige is already engaged in SVN, it will become more so by the sending of troops.

"C. If the first contingent is not enough to accomplish the necessary results, it will be difficult to resist the pressure to reinforce. If the ultimate result sought is the closing of the frontiers and the clean-up of the insurgents within SVN, there is no limit to our

possible commitment (unless we attack the source in Hanoi).

"D. The introduction of US forces may increase tensions and risk escalation into a major war in Asia."

But despite these disadvantages, Taylor said in the cable, the introduction of a military task force offers more advantages than it creates risks and difficulties.

"In fact," wrote Taylor, "I do not believe that our program to save Vietnam will succeed without it."

Gen. Taylor just last week opposed the publication of the Pentagon study. He called the New York Times disclosures "a practice of betrayal of government secrets."

Asked on a CBS news program how his position squared with the people's right to know, Gen. Taylor responded.

"I don't believe in that as a general principle. You have to talk about cases. What is a citizen going to do after reading these documents that he wouldn't have done otherwise? A citizen should know those things he needs to know to be a good citizen and discharge his functions, but not to get into secrets that damage his government and indirectly damage the citizen himself."

Sen. Edward Kennedy, President Kennedy's brother, said he was not certain what the Pentagon study contained with regard to his brother, but that he favored its publication.

TET OFFENSIVE TURNED JOHNSON TOWARD VIETNAMIZATION POLICY

(By Crocker Snow, Jr.)

When President Johnson in March 1968 announced publicly that he would not run for re-election, he was also deciding privately that a policy of Vietnamization was the best one for the nation to follow in the war.

The President's speech was also a denial of Gen. William C. Westmoreland's request for an increase of 206,000 American troops.

This change in the President's thinking toward the kind of policy President Nixon has since adopted is evidenced in the concluding portions of the secret Pentagon study viewing the decision-making of American military involvement in Vietnam.

It was March 31, 1968 that President Johnson made his famous peace initiative, in which he announced a limited bombing halt and only a small build-up of 24,500 American troops following the shock of the Tet Offensive two months earlier, and called for Britain and the Soviet Union to take the lead in achieving a peaceful settlement.

In this same speech, the President made an urgent plea for national unity, and took himself out of the 1968 presidential race with the words, "I shall not seek, and I will not accept . . ."

The focus of public attention centered on these latter two aspects of the speech.

But the day before, in a cable marked "Literally Eyes Only for the Ambassador or Charge" to the U.S. embassies in Australia, New Zealand, Thailand, Laos, the Philippines and South Korea, previewing the President's upcoming speech, the principal point, according to the Defense Department study, was:

"Major stress on importance of GVN (Government of Vietnam) and ARVN (Army of Republic of Vietnam) increased effectiveness, with our equipment and other support as first priority in our own actions."

This cable, about which the ambassadors were directed to "see their respective heads of government," previewed what the President himself was to say publicly the next day.

Mr. Johnson led off by stating: "We shall accelerate the re-equipment of South Vietnam's armed forces in order to meet the enemy's increased firepower. This will enable them progressively to undertake a larger share of the combat operations against the Communist invaders."

The significance of this policy—largely unrecognized by the press or public at that time—was pointed out in the narrative written by a team of Pentagon writers to go along with their exhaustive study.

The very last sentences in the material made available to The Globe and known to be in the study itself in the section entitled "Epilogue", which concerns the effect of the Tet Offensive on US policies, reads:

"The possibility of military victory had seemingly become remote and the cost had become too high both in political and economic terms. Only then were our ultimate objectives brought out and reexamined. Only then was it realized that a clear-cut military victory was probably not possible or necessary, and that the road to peace would be at least as dependent upon South Vietnamese political developments as it would be on American arms.

"This realization, then, made it possible to limit the American military commitment to South Vietnam to achieve the objectives for which this force had originally been deployed. American forces would remain in South Vietnam to prevent defeat of the Government by Communist forces and to provide a shield behind which that Government could rally, become effective, and win the support of its people."

These concluding words of the Pentagon study, describing the final phase of Mr. Johnson's thinking on the war, have a sound similar to President Nixon's in his "Silent Majority" speech on Nov. 3, 1969, in which he said: "The primary mission of our troops is to enable the South Vietnamese forces to assume the full responsibility for the security of South Vietnam."

The two months between the Tet Offensive and President Johnson's notable speech to the nation are described in the Pentagon study as a time of conflicting counsel coming to the White House and revolving around a request from General William Westmoreland, then the US commander in Saigon, for 206,000 additional troops over the 525,000 ceiling that had previously been placed on American forces there.

The fireworks of the Tet Offensive had, it is clear from the Pentagon studies, shaken Washington's confidence in the eventual outcome of the war and kicked off what the writers describe as a "reassessment from A to Z".

The attacks had begun with the bombing of the United States Embassy on January 31, 1968, and, according to the analyst, "although it had been predicted, took the US Command and the US public by surprise, and its strength, length and intensity prolonged this shock."

One of the first official reassessments following Tet was undertaken by the Joint Chiefs of Staff at the direction of Secretary of Defense Robert McNamara.

The Pentagon study describes the Joint Chiefs recommendations and concludes that "for perhaps the first time in the history of American involvement in Vietnam, the Joint Chiefs of Staff recommended against deploying the additional forces requested by the field commander, in the absence of other steps to reconstitute the strategic reserve."

"At long last," reads the report, the resources were beginning to be drawn too thin, the assets became unavailable, the support base too small."

In considering the different possible contingencies surrounding calls for new troops in Vietnam, the Joint Chiefs had, according to the writer, considered "the possibility of widespread civil disorder in the United States" and concluded that "sufficient forces would still be available for civil disorder control."

The Joint Chiefs' consideration of possible civil disorder indicates as well as anything in the documents the growing disaffection of major portions of the population with government policies in Vietnam by early 1968.

On March 12 and 13, Secretary of State Dean Rusk appeared before the Senate Foreign Relations Committee and was questioned about the war.

The Pentagon document points out that Rusk "even came under criticism from one of the few Administration supporters on the Committee, Sen. Karl E. Mundt (R-S.D.).

"You are as aware as we are that the shift of opinion in this country is in the wrong direction," Sen. Mundt is quoted as telling the Secretary of State. "Something more convincing has to come from the Administration as to what this is all about 'to match' the sacrifices we are making."

What is not specifically mentioned in the documents, but what must have had an effect too on President Johnson's sense of the mood of the country was the big showing for Sen. Eugene McCarthy (D-Minn.) running as a peace candidate in the Democratic presidential primary in New Hampshire.

Just two weeks earlier, on March 1, the President had sworn in Clark Clifford as secretary of defense.

Clifford, according to the Pentagon study, was under mandate from the President to conduct "a complete and searching reassessment of the entire US strategy and commitment in South Vietnam."

Even before he officially took office, Clifford set up a special group to help with this reassessment, consisting of Secretary McNamara; Gen. Maxwell Taylor; Paul Nitze, special adviser to McNamara; Henry Fowler of the Treasury; Nicholas Katzenbach, No. 3 man in the State Department; Walt W. Rostow, presidential adviser; Richard Helms of the CIA; William Bundy, assistant secretary of state for Far Eastern affairs; Paul Warnke of the Defense Dept.; and Philip Habib of the State Dept.

Gen. Earle Wheeler, chairman of the Joint Chiefs, had in addition been sent to Saigon on Feb. 23 and reported directly to the President four days later.

An intense period of discussion, debate and memo-writing among these individuals and various agencies of the government was carried out through the last week of February and the early days of March.

Memoranda were submitted by the ISA (International Security Affairs division of the Defense Department) and CIA on various military and political projections of the war under different circumstances.

An assistant secretary of defense for public affairs Phil Goulding prepared a paper entitled "Possible Public Reactions to Various Alternatives." In this, he considered five options with the first, and in his terms worst, one being "increased mobilization and deployment moves without other new actions."

Such an option, he wrote, "will make the doves unhappy because we become more and more enmeshed in the war. They will make the hawks unhappy, because we still will be withholding our military strength, particularly in the North. And the middle-of-the-roaders who basically support the President out of conviction or patriotism will be unhappy because they will see the ante going up in many ways and still will not be given a victory date, a progress report they can believe or an argument they can accept that all of this IS in the national interest."

Goulding ran through other options from a public affairs standpoint and recommended one which he describes as "denial of Gen. Westmoreland's request and a change in strategy in South Vietnam."

"While this does not necessarily show progress," he writes, "it does show change. It does show the search for new approaches. . . . It would prevent the middle-of-the-roaders from joining the doves."

The Pentagon writer who compiled the narrative of this concluding part of the study acknowledges that "there is of course no way

of knowing how much consideration and weight were given to each of these papers by the small group of action officers in the Pentagon. . . ."

The net result of this governmental "reassessment from A to Z in the spring of 1968 is described in the narrative part of the Pentagon study as "similar to all previous requests for reinforcement in Vietnam."

"The litany was familiar," wrote the analyst. "We will furnish what we can presently furnish without disrupting the normal political and economic life of the nation, while we study the situation as it develops."

But the Pentagon study documents how the new defense secretary, Clifford, took this familiar litany a step further.

In a draft memorandum for the President dated March 4, 1968, Clifford recommends new deployments of 22,000 of the 206,000 men which Gen. Westmoreland had requested by the end of the year.

His second paragraph of recommendations called for: "Either through Ambassador Bunker or through an early visit by Secretary Clifford, a highly forceful approach to the GVN (Thieu and Ky) to get certain key commitments for improvement, tied to our own increased effort and to increased US support for the ARVN. . . ."

Clifford is described as recommending early approval of a call-up of reserves, a wait-and-see attitude about Gen. Westmoreland's full request, no new peace initiative but a restatement of the old, "a general decision on bombing policy not excluding future change," and an in-depth study of "possible new political and strategic guidance for the conduct of US operations in South Vietnam . . ."

The Pentagon analyst writes that "from the 4th of March (when Clifford's recommendations were submitted) until the final presidential decision was announced, the written record becomes sparse. The debate within the Administration was argued and carried forward on a personal basis by the officials involved, primarily, the secretary of Defense and the secretary of State."

One further important input was to influence the President at this critical juncture, according to the documents.

On March 18, Mr. Johnson summoned what is described as "a group of his friends and confidants" to Washington to hear the options and help advise him. Those present were former undersecretary of state George Ball; Arthur Dean, a Republican New York lawyer who was a Korean war negotiator during the Eisenhower Administration; Dean Acheson, former President Truman's secretary of state; Gen. Matthew B. Ridgeway, the retired commander of the UN troops in Korea; Gen. Maxwell Taylor, former chairman of the Joint Chiefs of Staff; Cyrus Vance, former deputy defense secretary; McGeorge Bundy, Ford Foundation president who had been special assistant for national security affairs to Mr. Johnson, and former President Kennedy; former Treasury Secretary C. Douglas Dillon and Gen. Omar Bradley.

The group met over dinner with Secretary of State Rusk; Defense Secretary Clifford; Ambassador Harriman; Walt W. Rostow, the President's special assistant for national security affairs; Richard Helms, director of the Central Intelligence Agency; Paul Nitze, deputy defense secretary; Nicholas Katzenbach, undersecretary of state; and William P. Bundy, assistant secretary of state for Far East.

As described in the Pentagon study, both groups were briefed separately by three men, Habib, Maj. Gen. William E. DePuy, a special assistant to the Joint Chiefs for counterinsurgency, and George Carver, a CIA analyst.

The following day, the group from outside the government joined President Johnson for lunch and, according to the writer, surprised the President with a Recommendation to "forget about seeking a battlefield solution to the problem and instead intensify efforts to seek a political solution at the negotiating table."

As a result of the difference between these conclusions and those of his government aides, both drawn from essentially the same briefings, the President is reported to have had midnight evening sessions with the same three men in order to draw his own conclusions.

The reports from this are drawn by the Pentagon study and directly credited by the Pentagon writer to a news report by diplomatic writer Stuart Loory of the Los Angeles Times.

Earlier in the narration of this period, the documents credit an article written by Neil Sheehan and Hedrick Smith and published on March 10 in the New York Times as being a "Startling accurate account of the big issues and intra-governmental debate which the President was listening to."

Throughout the month of March, the writer describes the President as "troubled . . . in public he continued to indicate firmness and resoluteness, but press leaks and public criticism continued to compound his problem."

Thus was the stage set for Mr. Johnson's famous speech which comprises a separate chapter in the Pentagon narrative entitled "I Shall Not Seek, and I Will Not Accept."

In the narrative's brief epilogue to this period, the writer concluded with the mention of a response from Hanoi on April 3, 1968 in which, as President Johnson publicly described it, "The Government of the Democratic Republic of Vietnam declares its readiness to appoint its representatives to contact the US representative with a view to determining with the American side the unconditional cessation of the US bombing raids and all other acts of war against the Democratic Republic of Vietnam so that talks may start."

President Johnson then repeated his statement of three days earlier, "Now, as in the past, the United States is ready to send its representatives to any forum, at any time, to discuss the means of bringing this war to an end."

Concluding this aspect of the 47-volume Defense Department study tracing American involvement in Vietnam from 1954, the Pentagon writer states: "For a policy from which so little was expected a great deal was initiated. The North Vietnamese and Americans sat down at the conference table in Paris to begin to travel the long road to peace; the issue of Vietnam was largely removed from American political discord; a limit to the commitment of US forces was established, and the South Vietnamese were put on notice that, with our help, they would be expected to do more in their own defense."

Admiral Sought Nuclear Option

(By Matthew V. Storin)

Unpublished portions of the 47 * * * Vietnam war were made available yesterday to the Boston Globe.

The Globe is the third US newspaper to report on the 7000 page analysis tracing America's growing involvement in Indochina from World War II through mid-1968.

According to the documents made available to the Globe:

—Gen. Maxwell Taylor advised President Kennedy in 1961 to send 8000 American combat troops into Vietnam but warned the move could lead to increased world tensions and a wider war. There were 1000 US troops in Vietnam at that time.

—As soon as President Johnson announced a partial end to the bombing of North Vietnam on March 31, 1968, he elected to proceed with a policy of Vietnamization similar to that later followed by President Nixon.

—On June 2, 1964, Secretary of Defense Robert S. McNamara in a meeting of top Administration officials in Honolulu discussed the possible use of nuclear weapons in Vietnam. Adm. Harry D. Felt, commander of US forces in the Pacific, openly advocated that American commanders be given this option.

—The Soviet Union, fearing reaction from Communist China, rejected a plea by the United States in May, 1965, that Hanoi be informed that a bombing pause was being undertaken in hopes of prompting negotiations to end the war.

The massive Pentagon study, initiated by Secretary McNamara in June, 1967, was the work of more than 30 authors both inside and outside of government. The first report of the study was published June 13 by the New York Times. The Washington Post began printing reports on June 18.

Yesterday Federal appeals courts in New York and Washington continued their respective temporary bans against publication of further reports by the Times and the Post.

Both courts scheduled further hearings today. Lower Federal courts in both cities had previously ruled in favor of the newspapers but the decisions were appealed by the Justice Department.

The U.S. Circuit Court of Appeals in New York ruled that its eight-member bench would hear the case today. Chief Judge Henry Friendly summoned colleagues from Vermont and Connecticut.

The Times, which had printed three articles on the Pentagon history, was enjoined from printing further reports until after the hearing set for 2 p.m. It was expected that a ruling from the court could not come before tomorrow.

In Washington, the Circuit Court of Appeals overruled Federal District Court Judge Gerhard Gesell for a second time after he said the Post could resume its reports.

Gessell, who was first overruled on Friday, said yesterday the government had made an earnest and responsible plea to stop publication on the basis of national security but had not proved its case.

"The government has failed to meet its burden, and without that burden being met, the first Amendment remains supreme," Gesell said.

Gesell, who heard most of yesterday's arguments by the Post and the government behind closed doors, said the only case that could be made against publication would be to show that it would possibly bring on war, threaten foreign relations or create other situations of major importance to national security.

The Justice Department immediately went to the appeals court to protest Gesell's ruling. The higher court then ruled the Post could not publish until the government's arguments were heard this afternoon.

The ruling was made by the entire nine-judge court headed by David L. Bazelon.

In both the Times and Post cases, the next step would be appeals to the Supreme Court. These are expected regardless of which side wins in the appeals courts.

Lawyers in both cases are expected to rush proceedings in order to put the issue before the Supreme Court by Friday. The high court is scheduled to begin its summer recess this weekend.

Meanwhile the FBI was reported to have found two locations in Cambridge where copies of the Pentagon study had been reproduced.

In Washington, Senate Democratic Leader Mike Mansfield said the documents printed by the Times and Post raised grave questions about the manner in which US foreign policy is carried out.

He told the Senate that the study confirms the complaints of war critics that the US policy in Vietnam was made without participation by the Congress.

"In short," he said, "We have arrived at

where we are in Vietnam not by party processes but by government processes."

Mansfield urged, however, that the issue of the Pentagon documents now be kept out of partisan politics. It would only "compound the tragedy," he said.

In a brief filed in the Times case yesterday, the American Civil Liberties Union, acting for itself and 27 congressmen, argued:

"It is utterly disrespectful to the First Amendment to censor a publication solely on the basis of generalized allegations that were proferred in this case."

General Taylor's Vietnam Cables to Kennedy

Terms used in Pentagon texts

ARVN—Army of the Republic of (South) Vietnam.
CHICOM—Chinese Communists.
CINCPAC—Commander-in-chief, Pacific.
DRV—Democratic Republic of (North) Vietnam.
GVN—Government of (South) Vietnam.
JCS—Joint Chiefs of Staff.
MAAC—Military Assistance Advisory Command.
MACV—Military Assistance Command, Vietnam.
RD—Revolutionary Development Program.
RVNAF—Republic of (South) Vietnam Air Force.
SEA—Southeast Asia.
SVN—South Vietnam.
USG—United States Government.
VC—Viet Cong.

Cablegram from General Maxwell D. Taylor in Saigon in late October, 1961, to President Kennedy, on the question of introducing US military forces into Vietnam.

My view is that we should put in a task force consisting largely of logistical troops for the purpose of participating in flood relief and at the same time of providing a US military presence in VN capable of assuring Diem of our readiness to join him in a military showdown with the Viet Cong or Viet Minh. To relate the introduction of these troops to the needs of flood relief seems to me to offer considerable advantages in VN and abroad. It gives a specific humanitarian task as the prime reason for the coming of our troops and avoids any suggestion that we are taking over responsibility for the security of the country. As the task is a specific one, we can extricate our troops when it is done if we so desire. Alternatively, we can phase them into other activities if we wish to remain longer.

The strength of the force I have in mind on the order of 6–8000 troops. Its initial composition should be worked out here after study of the possible requirements and conditions for its use and subsequent modifications made with experience.

In addition to the logistical component, it will be necessary to include some combat troops for the protection of logistical operations and the defense of the area occupied by US forces. Any troops coming to VN may expect to take casualties.

Needless to say, this kind of task force will exercise little direct influence on the campaign against the VC. It will, however, give a much needed shot in the arm to national morale, particularly if combined with other actions showing that a more effective working relationship in the common cause has been established between the GVN and the U.S.

A second cablegram from General Taylor to President Kennedy in October, 1961, sent from the Philippines.

1. Transmitted herewith are a summary of the fundamental conclusions of my group and my personal recommendations in response to the letter of the President to me dated 13 October 1961.

2. It is concluded that:

(a) Communist strategy aims to gain control of Southeast Asia by methods of subversion and guerrilla war which by-pass conventional U.S. and indigenous strength on the ground. The interim Communist goal—en route to total take-over—appears to be a neutral Southeast Asia, detached from U.S. protection. This strategy is well on the way to success in Vietnam.

(b) In Vietnam (and Southeast Asia) there is a double crisis in confidence: doubt that U.S. is determined to save Southeast Asia; doubt that Diem's methods can frustrate and defeat Communist purposes and methods. The Vietnamese (and Southeast Asians) will undoubtedly draw—rightly or wrongly—definitive conclusions in coming weeks and months concerning the probable outcome and will adjust their behavior accordingly. What the U.S. does or fails to do will be decisive to the end result.

(c) Aside from the morale factor, the Vietnamese Government is caught in interlocking circles of bad tactics and bad administrative arrangements which pin their forces on the defensive in ways which permit a relatively small Viet-Cong force (about one-tenth the size of the GVN regulars) to create conditions of frustration and terror certain to lead to a political crisis, if a positive turning point is not soon achieved. The following recommendations are designed to achieve that favorable turn, to avoid a further deterioration in the situation in South Vietnam, and eventually to contain and eliminate the threat to its independence.

3. It is recommended:

GENERAL

(a) That upon request from the Government of Vietnam (GVN) to come to its aid in resisting the increasing aggressions of the Viet-Cong and in repairing the ravages of the Delta flood which, in combination, threaten the lives of its citizens and the security of the country, the US Government offer to join the GVN in a massive joint effort as a part of a total mobilization of GVN resources to cope with both the Viet-Cong (VC) and the ravages of the flood. The US representatives will participate actively in this effort, particularly in the fields of government administration, military plans and operations, intelligence, and flood relief, going beyond the advisory role which they have observed in the past.

SPECIFIC

(b) That in support of the foregoing broad commitment to a joint effort with Diem, the following specific measures be undertaken:

(1) The US Government will be prepared to provide individual administrators for insertion into the governmental machinery of South Vietnam in types and numbers to be worked out with President Diem.

(2) A joint effort will be made to improve the military-political intelligence system beginning at the provincial level and extending upward through the government and armed forces to the Central Intelligence Organization.

(3) The US Government will engage in a joint survey of the conditions in the provinces to assess the social, political, intelligence, and military factors bearing on the prosecution of the counter-insurgency in order to reach a common estimate of these factors and a common determination of how to deal with them. As this survey will consume time, it should not hold back the immediate actions which are clearly needed regardless of its outcome.

(4) A joint effort will be made to free the Army for mobile, offensive operations. This effort will be based upon improving the training and equipping of the Civil Guard and the Self-Defense Corps, relieving the regular Army of static missions, raising the level of the mobility of Army Forces by the provision of considerably more helicopters and light aviation, and organizing a Border Ranger Force for a long-term campaign on the Laotian border against the Viet-Cong infiltrators. The US Government will support this effort with equipment and with military units and personnel to do those tasks which the Armed Forces of Vietnam cannot perform in time. Such tasks include air reconnaissance and photography, airlift (beyond the present capacity of SVN forces), special intelligence, and air-ground support techniques.

(5) The US Government will assist the GVN in effecting surveillance and control over the coastal waters and inland waterways, furnishing such advisors, operating personnel and small craft as may be necessary for quick and effective operations.

(6) The MAAG, Vietnam, will be reorganized and increased in size as may be necessary by the implementation of these recommendations.

(7) The US government will offer to introduce into South Vietnam a military task force to operate under US control for the following purposes:

(a) Provide a US military presence capable of raising national morale and of showing to Southeast Asia the seriousness of the US intent to resist a Communist takeover.

(b) Conduct logistical operations in support of military and flood relief operations.

(c) Conduct such combat operations as are necessary for self-defense and for the security of the area in which they are stationed.

(d) Provide an emergency reserve to back up the armed forces of the GVN in the case of a heightened military crisis.

(e) Act as an advance party of such additional forces as may be introduced if CINCPAC or SEATO contingency plans are invoked.

(8) The US government will review its economic aid program to take into account the needs of flood relief and to give priority to those projects in support of the expanded counter-insurgency program.

A third cablegram from General Taylor to President Kennedy in October, 1961, also sent from the Philippines.

This message is for the purpose of presenting my reasons for recommending the introduction of a US military force into South Vietnam (SVN). I have reached the conclusion that this is an essential action if we are to reverse the present downward trend of events in spite of a full recognition of the following disadvantages:

(a) The strategic reserve of US forces is presently so weak that we can ill afford any detachment of forces to a peripheral area of the Communist bloc where they will be pinned down for an uncertain duration.

(b) Although US prestige is already engaged in SVN, it will become more so by the sending of troops.

(c) If the first contingent is not enough to accomplish the necessary results, it will be difficult to resist the pressure to reinforce. If the ultimate result sought is the closing of the frontiers and the clean-up of the insurgents within SVN, there is no limit to our possible commitment (unless we attack the source in Hanoi).

(d) The introduction of US forces may increase tensions and risk escalation into a major war in Asia. On the other side of the argument, there can be no action so convincing of US seriousness of purpose and hence so reassuring to the people and Government of SVN and to our other friends and allies in SEA as the introduction of US forces into SVN. The views of indigenous and US officials consulted on our trip were unanimous on this point. The size of the US force introduced need not be great to provide the military presence necessary to produce the desired effect on national morale in SVN and on international opinion. A bare token, however, will not suffice; it must have a significant value. The kinds of tasks which it might undertake which would have a significant value are:

(a) Provide a US military presence capable of raising national morale and of showing to Southeast Asia the seriousness of the US intent to resist a Communist takeover.

(b) Conduct logistical operations in support of military and flood relief operations.

(c) Conduct such combat operations as are necessary for self-defense and for the security of the area in which they are stationed.

(d) Provide an emergency reserve to back up the Armed Forces of the GVN in the case of a heightened military crisis.

(e) Act as an advance party of such additional forces as may be introduced if CINCPAC or SEATO contingency plans are invoked.

It is noteworthy that this force is not proposed to clear the jungles and forests of Viet Cong guerrillas. That should be the primary task of the Armed Forces of Vietnam for which they should be specifically organized, trained, and stiffened with ample US advisors down to combat battalion levels. However, the U.S. troops may be called upon to engage in combat to protect themselves, their working parties, and the area in which they live. As a general reserve, they might be thrown into action (with US agreement) against large, formed guerrilla bands which have abandoned the forests for attacks on major targets. But in general, our forces should not engage in small-scale guerrilla operations in the jungle.

As an area for the operations of US troops, SVN is not an excessively difficult or unpleasant place to operate. While the border areas are rugged and heavily forested, the terrain is comparable to parts of Korea where US troops learned to live and work without too much effort. However, these border areas, for reasons stated above, are not the places to engage our forces. In the High Plateau and in the coastal plain where US troops would probably be stationed, these jungle-forest conditions do not exist to any great extent. The most unpleasant feature in the coastal areas would be the heat and, in the Delta, the mud left behind by the flood. The High Plateau offers no particular obstacle to the stationing of US troops.

The extent to which the Task Force would engage in flood relief activities in the Delta will depend upon further study of the problem there. As reported in Saigon 537, I see considerable advantages in playing up this aspect of the Task Force mission. I am presently inclined to favor a dual mission, initially help to the flood area and subsequently use in any other area of SVN where its resources can be used effectively to give tangible support in the struggle against the Viet Cong. However, the possibility of emphasizing the humanitarian mission will wane if we wait long in moving in our forces or in linking our stated purpose with the emergency conditions created by the flood.

The risks of backing into a major Asian war by way of SVN are present but are not impressive. NVN is extremely vulnerable to conventional bombing, a weakness which should be exploited diplomatically in convincing Hanoi to lay off SVN. Both the DRV and the Chicoms would face severe logistical difficulties in trying to maintain strong forces in the field in SEA, difficulties which we share but by no means to the same degree. There is no case for fearing a mass onslaught of Communist manpower into SVN and its neighboring states, particularly if our airpower is allowed a free hand against logistical targets. Finally, the starvation conditions in * * * leaders there from being militarily venturesome for some time to come.

By the foregoing line of reasoning, I have reached the conclusion that the introduction of a US military task force without delay offers definitely more advantage than it creates risks and difficulties. In fact, I do not believe that our program to save SVN will succeed without it. If the concept is approved, the exact size and composition of the force should be determined by the Secretary of Defense in consultation with the JCS, the chief MAAG and CINCPAC. My own feel * * * ponderant number would be in logical-type units. After acquiring experience in operating in SVN, this initial force will require reorganization and adjustment to the local scene.

As CINCPAC will point out, any forces committed to SVN will need to be replaced by additional forces to his area from the strategic reserve in the US. Also, any troops to SVN are in addition to those which may be required to execute SEATO Plan 5 in Laos. Both facts should be taken into account in current considerations of the FY 1963 budget which bear upon the permanent increase which should be made in the US military establishment to maintain our strategic position for the long pull.

REPORT ON TET OFFENSIVE

(NOTE.—Excerpts from a report by General Earle G. Wheeler, chairman of the Joint Chiefs of Staff, summarizing his findings after a visit to South Vietnam immediately following the Tet Offensive in 1968. The report is dated February 27, 1968.)

SUMMARY

The current situation in Vietnam is still developing and fraught with opportunities as well as dangers.

There is no question in the mind of MACV that the enemy went all out for a general offensive and general uprising and apparently believed that he would succeed in bringing the war to an early, successful conclusion.

The enemy failed to achieve his initial objective but is continuing his effort. Although many of his units were badly hurt, the judgment is that he has the will and the capability to continue.

Enemy losses have been heavy; he has failed to achieve his prime objectives of mass uprisings and capture of a large number of the capital cities and towns. Morale in enemy units which were badly mauled or where the men were oversold the idea of a decisive victory at TET probably has suffered severely. However, with replacements, his indoctrination system would seem capable of maintaining morale at a generally adequate level. His determination appears to be unshaken.

The enemy is operating with relative freedom in the countryside, probably recruiting heavily and no doubt infiltrating NVA units and personnel. His recovery is likely to be rapid; his supplies are adequate; and he is trying to maintain the momentum of his winter-spring offensive.

The structure of the GVN held up, but its effectiveness has suffered.

The RVNAF held up against the initial assault with gratifying, and in a way surprising strength and fortitude. However, ARVN is now in a defensive posture around towns and cities and there is concern about how well they will bear up under sustained pressure.

The initial attack nearly succeeded in a dozen places, and defeat in those places was only averted by the timely reaction of US forces. In short, it was a very near thing.

There is no doubt that RD Program has suffered a severe set back.

US forces have lost none of their pre-TET capability. . . .

The Situation as It Stands Today: Enemy Capabilities

The enemy has been hurt badly in the populated lowlands, but is practically intact elsewhere. He committed over 67,000 combat maneuver forces plus perhaps 25% or 17,000 more impressed men and boys, for a total of about 84,000. He lost 40,000 killed, at least 3000 captured, and perhaps 5000 disabled or died of wounds. He had peaked his force total to about 240,000 just before TET, by hard recruiting, infiltration, civilian impressment, and drawdowns on service and guerrilla personnel. So he has lost about one fifth of his total strength. About two-thirds of his trained, organized unit strength can continue offensive action. He is probably infiltrating and recruiting heavily in the countryside while allied forces are securing the urban areas.

The enemy has adequate munitions, stockpiled in-country and available through the DMZ, Laos, and Cambodia, to support major attacks and countrywide pressure; food procurement may be a problem. Besides strength losses, the enemy now has morale and training problems which currently limit combat effectiveness of VC guerrilla, main and local forces. . . .

GVN STRENGTH AND EFFECTIVENESS

(1) Psychological—The people in South Vietnam were handed a psychological blow, particularly in the urban areas where the feeling of security had been strong. There is a fear of further attacks.

(2) The structure of the Government was not shattered and continues to function but at greatly reduced effectiveness.

(3) In many places, the RD program has been set back badly. In other places the program was untouched in the initial stage of the offensive. MACV reports that of the 555 RD cadre groups, 278 remain in hamlets, 245 are in district and province towns on security duty, while 32 are unaccounted for. It is not clear as to when, or even whether, it will be possible to return to the RD program in its earlier form. As long as the VC prowl the countryside, it will be impossible, in many places, even to tell exactly what has happened to the program.

(4) Refugees—An additional 470,000 refugees were generated during the offensive. The problem of caring for refugees is part of the larger problem of reconstruction in the cities and towns. It is anticipated that the care and reestablishment of the 250,000 persons or 50,000 family units who have lost their homes will require from GVN sources the expenditure of 500 million piasters for their temporary care and resettlement plus an estimated 30,000 metric tons of rice. . . .

U.S. STRATEGY

MACV believes that the central thrust of our strategy now must be to defeat the enemy offensive and that if this is done well, the situation overall will be greatly improved over the pre-TET condition.

MACV accepts the fact that its first priority must be the security of Government of Vietnam in Saigon and provincial capitals. MACV describes its objectives as . . .

(1) Security of Cities and Government. MACV recognizes that US forces will be required to reinforce and support RVNAF in the security of cities, towns and government structure. At this time, 10 US battalions are operating in the environs of Saigon. It is clear that this task will absorb a substantial portion of US forces.

(2) Security in the Countryside. To a large extent the VC now control the countryside. Most of the 54 battalions formerly providing security for pacification are now defending district or province towns. MACV estimates that US forces will be required in a number of places to assist and encourage the Vietnamese Army to leave the cities and towns and reenter the country. This is especially true in the Delta.

(3) Defense of the borders, the DMZ and the northern provinces. MACV considers that it must meet the enemy threat in I Corps and has already deployed there slightly over 50% of all US maneuver battalions. US forces have been thinned out in the highlands, notwithstanding an expected enemy offensive in the early future.

(4) Offensive Operations. Coupling the increased requirement for the defense of the

cities and subsequent reentry into the rural areas, and the heavy requirement for defense of the I Corps, MACV does not have adequate forces at this time to resume the offensive in the remainder of the country, not does it have adequate reserves against the contingency of simultaneous large-scale enemy offensive action throughout the country.

(5) Force Requirements. Forces currently assigned to MACV . . . are inadequate in numbers and balance to carry out the strategy and to accomplish the tasks described above in the proper priority. To contend with, and defeat, the new enemy threat, MACV has stated requirements for forces over the 525,000 ceiling imposed by program Five. The add-on requested totals 206,756 spaces for a new proposed ceiling of 731,756, with all forces being deployed into country by the end of CY 68.

WHAT DOES THE FUTURE HOLD?

We see the enemy pursuing a reinforced offensive to enlarge his control throughout the country and keep pressures on the government and allies. We expect him to maintain strong threats in the DMZ area, at Khe Sanh, in the highlands, and at Saigon, and to attack in force when conditions seem favorable. He is likely to try to gain control of the country's northern provinces. He will continue efforts to encircle cities and province capitals to isolate and disrupt normal activities, and infiltrate them to create chaos. He will seek maximum attrition of RVNAF elements. Against US forces, he will emphasize attacks by fire on airfields and installations, using assaults and ambushes selectively. His central objective continues to be the destruction of the Government of SVN and its armed forces. As a minimum he hopes to seize sufficient territory and gain control of enough people to support establishment of the groups and committees he proposes for participation in an NLF dominated government.

SOVIETS REFUSED TO CARRY PEACE FEELER TO HANOI

(By Darius S. Jhabvala)

The Soviet Union, evidently concerned about adverse reactions from Communist China, refused to assist the United States in getting across a message to Hanoi in 1965. The message, first mentioned by Secretary of State Dean Rusk to Soviet Ambassador Anatoly Dobrynin, was sent to Foy Kohler, the US ambassador in Moscow, for transmission to the North Vietnamese Embassy and to the Soviet Foreign Ministry. It informed the Communist side that "for a period beginning at noon, Washington time, Wednesday, May 12, and running into the next week," there were to be no air attacks on North Vietnam.

This decision was reached after there were "repeated suggestions from various quarters . . . that there could be no progress towards peace while there were air attacks."

However, the message clearly pointed out that the United States "will be very watchful to see whether in this period of pause there are any significant reductions in such armed actions by such (North Vietnamese—Viet Cong) forces." The North Vietnamese Embassy formally refused to accept the message which was delivered by a special messenger. But when Kohler sought the cooperation of the Russians at a face to-face meeting with Deputy Foreign Minister Nikolai P. Firyubin, he was told: "I am not a postman." According to a message from Kohler to the State Department, Firyubin added that the United States "could find our own ways of transmitting messages."

An extensive and detailed report of the American effort to involve the Russians in what then appeared as a peacemaking mission is part of the Defense Department's history of the Vietnam war that is now available to The Boston Globe.

The report reveals the details of the message Washington wished to get across to Hanoi via Moscow, instructions for Kohler, the gist of Rusk's conversation with Dobrynin and a somewhat lengthy appraisal by Kohler of the Soviet attitude.

Despite the refusal to accept the American message, Kohler seemed confident that Hanoi had received word but refused to respond as Washington had desired.

According to the Defense Department's documents, Kohler was instructed to emphasize that the bombing pause should not be misunderstood "as an indication of weakness" and "it would be necessary to demonstrate more clearly than ever, after the pause ended, that the US is determined not to accept aggression without reply in Vietnam.

"Moreover, the United States must point out that the decision to end air attacks for this limited trial period is one which it must be free to reverse if at any time in the coming days there should be actions by the other side in Vietnam which required immediate reply," the message to Kohler added.

When Rusk explained the substance of the message to Dobrynin, the latter "noted we were merely informing the Soviets." Accordingly, Rusk's report points out, he "was clearly relieved we are not asking them to act as intermediary."

"Dobrynin said he thought we could get some answer but could not predict what," Rusk informed Kohler. Kohler, upon receiving the secretary's instructions, directed an aide to phone the North Vietnamese embassy to request an urgent appointment, but he was turned down because of the lack of diplomatic relations between the two countries.

Kohler asked Washington for further instructions. He was told to approach the Soviet Foreign Ministry and to transmit the message by letter to Hanoi's embassy, but the letter was returned the following morning (May 13) "in a plain envelope addressed simply Embassy of USA."

At his meeting with Firyubin, Kohler was told that the Russians viewed the communication "as based on an erroneous conception on which the US has preceeded."

"Firyubin could only view the communication as repetition of the threat against the DRV (Democratic Republic of Vietnam—North Vietnam)—now a threat of renewed and expanded aggression. This was the only way he could interpret the reference to the risk that a suspension of the attacks involved. Obviously we are suffering from a gross misunderstanding if we think that such aggression will go unpunished, without response," Kohler reported Firyubin had implied.

After the oral exchange, Firyubin said flatly, according to the Kohler advisory, "the Soviet government will not transmit the US government's message to the DRV, that the DRV had not requested the service and that it was the US responsibility to find a convenient way of passing the message."

After further reflection on his meeting with Firyubin, Kohler sent a follow-up message to Washington in which he sought to present the Soviet position "with some sympathy and to promote an understanding of the Soviet rebuff."

"On the one hand, I was annoyed at the apparent Soviet rebuff of an effort to take heat out of admittedly dangerous situation in Southeast Asia and impatient with the flimsy rationale for Soviet refusal offered by Firyubin. On the other hand, I could understand, if not sympathize with, Soviet sensitivity, given Chicom (Chinese Communist) eagerness to adduce proof of their charges of collusion against Soviets and, frankly, given rather strenuous nature of the document they were being asked to transmit to DRV," Kohler messaged Washington. He went on to add his hope that "we would not regard Firyubin's reaction . . . as evidence of conscious hardening of Soviet attitude."

"It may be a reflection of the bind the Soviets find themselves in at the moment," he added.

Kohler, aware that the State Department was then trying to send the same message via the British consul in Hanoi, proposed "a shorter and revised wording."

"If cast in present form, I think we are simply inviting rebuff and Exercise-Hanoi would prove as fruitless as our effort in Moscow," he argued. Kohler was overruled and the second delivery was returned, ostensibly unopened.

CIA PLAYED DOWN U.S. DOMINO THEORY AT HONOLULU PARLEY

(By Darius S. Jhabvala)

A key Johnson administration military advisor had proposed in 1964 that tactical nuclear weapons would have to be deployed if Communist Chinese forces entered the ground war in Vietnam. Admiral Harry D. Felt, then the commander in chief of the Pacific forces, emphatically demanded also that commanders be given the freedom to use such weapons "as had been assumed under various plans."

This question, among others, was discussed among his top advisers at the Honolulu conference, June 1–2, 1964.

Following the meeting, President Johnson asked his advisers the basic question: "Would the rest of Southeast Asia necessarily fall if Laos and South Vietnam came under North Vietnamese control?"

On June 9, the Board of National Estimates of the Central Intelligence Agency, provided a response, stating:

"With the possible exception of Cambodia, it is likely that no nation in the area would quickly succumb to Communism as a result of the fall of Laos and South Vietnam. Furthermore, a continuation of the spread of Communism in the area would not be inexorable and any spread which did occur would take time—time in which the total situation might change in any number of ways unfavorable to the Communist cause."

These and other details are part of the on Vietnam study that was made for Defense Department.

The State Department approached the Honolulu conference "with a basic assumption," namely "our point of departure is and must be that we cannot accept the overrunning of southeast Asia by Hanoi and Peking."

Beyond this, the discussions "were intended to help clarify issues with respect to exerting pressures against North Vietnam." The joint Chiefs of Staff recommended that "the US should seek through military actions to accomplish destruction of the North Vietnamese will and capabilities as necessary to compel the Democratic Government of Vietnam to cease providing support to the insurgencies in South Vietnam and Laos."

LIMITED ACTION

However, the JCS went on to note that "some current thinking appears to dismiss the objective in favor of a lesser objective, one visualising limited military action which, hopefully, would cause the North Vietnamese to decide to terminate their subversive support."

During discussions of the extent of new military action, Ambassador Henry Cabot Lodge "argued in favor of attacks on north." He is reported to have stated "his conviction that most support for the Viet Cong would fade as soon as some 'counter-terrorism measures' were begun against DRV."

Discussions then turned to the desirability of obtaining a congressional resolution prior to wider US action. Lodge felt that it would not be necessary. But Defense Secretary McNamara, Rusk and CIA Director John McCone all argued in favor of the resolution.

Gen. Maxwell D. Taylor, chairman of the Joint Chiefs, then raised "the final possi-

bility" of Chinese involvement. Were that to occur, the allies would require "seven ground divisions."

"Secretary McNamara then went on to say that the possibility of major ground action also led to a serious question of having to use nuclear weapons at some point," the reports points out. "Admiral Felt responded emphatically that there was no possible way to hold off the Communists on the ground without the use of tactical nuclear weapons and that it was essential that the commanders be given freedom to use these as had been assumed under various plans," it added.

Gen. Taylor was "more doubtful as to the existence or at least to the degree of the nuclear weapon requirement."

"The point," the report concluded, "was not really followed up."

PROXMIRE-MATHIAS AMENDMENT PLACING $68 BILLION CEILING ON PENTAGON OUTLAYS FOR FISCAL YEAR 1972 WILL BE PROPOSED TO CONTINUING RESOLUTION

Mr. PROXMIRE. Mr. President, I wish to announce that Senator MATHIAS and I will offer the Proxmire-Mathias amendment to the continuing resolution when that comes before the Senate on Tuesday of next week.

The Proxmire-Mathias amendment places a ceiling of $68 billion on Pentagon outlays—the amount they can spend—for fiscal year 1972.

The text of the amendment reads:

Notwithstanding any other provision of law, the aggregate amount that may be expended for Department of Defense—Military Functions for the fiscal year ending June 30, 1972, shall not exceed $68,000,000,000.

SIXTY-EIGHT BILLION DOLLARS A MODERATE AND MODEST CEILING

There are several reasons why we are taking this action now. First of all, we believe that military spending should go down, not up, as the Vietnam war is wound down.

Our figure of $68 billion is a modest and moderate cut which can be absorbed on a timely basis without, in any way, harming our military security. For example, it would reduce monthly Pentagon outlays from a monthly rate of $6 billion, May 1971, to $5.66 billion per month for fiscal year 1972.

The incremental costs of the Vietnam war have been cut from $24 billion to $8 billion, or by $16 billion.

The number of personnel in the Armed Forces has been cut from a peak of 3.5 million to an average of 2.6 million for fiscal 1972 and to 2.5 million at the end of the year. This should save $10 billion at the modest estimate of a $10,000-per-man saving.

While one cannot add the two figures together because of some overlapping, some $20 to $22 billion of gross cuts have occurred.

Neither inflation and existing or prospective increases in pay can account for more than $12 to $14 billion. Therefore, there should be a savings of $8 to $10 billion from these cuts alone, even if we do not count on any improvements in procurement, more efficient use of existing forces, reexamination of the over 400 major and 3,000 minor bases overseas, or cuts in major weapons systems.

Sixty-eight billion dollars is almost precisely the amount Congress appropriated last year for the Pentagon. Since then $2.5 billion has been added for pay raises. But the Pentagon is spending $73.4 billion, or $2.2 billion more than Congress appropriated. In the past 4 years the Pentagon has spent almost $8 billion more than Congress appropriated in those 4 years.

DURING LAST 4 YEARS PENTAGON SPENDING EXCEEDS MONEY APPROPRIATED

I ask unanimous consent that a table giving congressional appropriations for "Department of Defense—Military functions," actual Pentagon outlays for "Department of Defense—Military functions," and the excess of the amount spent above the amount appropriated for fiscal years 1968 through 1971, be printed at this point in the RECORD.

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

[In billions]

Fiscal year	Appropriations	Pentagon outlays	Excess of outlays over amounts appropriated
1968	$76.4	$77.4	$1.0
1969	76.1	77.9	1.8
1970	74.3	77.2	2.9
1971 (estimated)	71.2	73.4	2.2
Total			7.9

BACKLOG EXCEEDS $35 BILLION

Mr. PROXMIRE. Mr. President, the Pentagon is able to do this by dipping into the more than $35 billion backlog of obligated and unobligated funds they have on hand. "Special Analysis G. of the Budget" for 1972 indicates that the Defense Department has $27 billion of obligated funds in their balance, of which $16.99 is procurement funds, and $9 billion in unobligated balances, or a total of $36 billion for fiscal year 1972.

URBAN COALITION RECOMMENDS $60 BILLION CEILING

The National Urban Coalition, after a comprehensive and detailed study by former Pentagon experts, proposed a fiscal year 1972 budget of $60 billion. We therefore believe that our proposal is a moderate, practical one. A cut to $68 billion merely emphasizes the degree of our self-restraint in light of the overwhelming evidence which could justify a larger reduction.

THIS IS THE PRIORITIES AMENDMENT

Second, this is the priorities amendment. There is a huge backlog of needs—health care, public service jobs, housing, pollution control, Federal assumption of welfare costs, reconversion, a floor under family income—to name only a few for which major new funds have been or soon will be authorized. These can add more than $50 billion to our present budget.

But former Budget Director Charles Schultze has told us that existing programs will eat up every cent of the fiscal dividend through fiscal year 1974, even if unemployment drops to 4 percent.

Thus, short of instituting arbitrary wage and price controls, which would stifle our competitive system, or running a deficit far bigger than any responsible economist proposes and which would act as an engine of inflation, or instituting tax increases which would overburden the already hard-pressed American taxpayers, the only place to get funds for these important purposes is by cutting the military budget and reordering priorities.

TAKING ACTION AT BEGINNING OF FISCAL YEAR

Finally, we are taking this course of action on this bill because it is the appropriate time and place to do so.

There are ample precedents for ceiling amendments. Almost every Member of the Senate has voted for some kind of ceiling amendment over the last 4 years.

It avoids the charge that was made last year when we proposed a similar amendment to the military authorization bill that the amendment came too late in the fiscal year for the Pentagon to make an orderly cut. Additionally, that bill covered only $20 billion of the total military spending.

OFFICE OF CONSTITUENT ASSISTANCE

Mr. HARTKE. Mr. President, yesterday I introduced S. 2134, a bill to establish an Office of Constituent Assistance. I believe that this proposal offers a plan to help Americans cope with the ever-mounting Government bureaucracy in Washington.

My proposal would create a central office to assist Congressmen and Senators in the handling of citizens' requests for assistance in dealing with Government agencies. I am pleased to note that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New York (Mr. JAVITS) are today introducing a proposal which embodies the same concept. Together we recognize the need to bring Government closer to the people.

Mr. President, I ask unanimous consent that the text of my bill and a section analysis be printed in the RECORD.

There being no objection, the text of the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2134

A bill to establish an Office of Constituent Assistance, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Office of Constituent Assistance Act".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "administrative action" includes action, omission, decision, recommendation, practice or procedure;

(2) "agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, and any officer, or member thereof acting or purporting to act in the exercise of his official duties, but does not include—

(A) the President;

(B) the Congress;

(C) the courts of the United States;

(D) the governments of the territories or possessions of the United States;

(E) the government of the District of Columbia;

(F) agencies composed of representatives of the parties or of representatives of organi-

zations of the parties to the disputes determined by them;

(G) courts martial and military commissions; or

(H) military authority exercised in the field in time of war or national emergency.

(3) "Director" means the Director of the Office of Constituent Assistance.

OFFICE ESTABLISHED

SEC. 3. (a) There is hereby established in the legislative branch of the Government the Office of Constituent Assistance, which shall be under the direction and control of the Director of the Office.

(b) The Director shall be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate, by and with the advice and consent of the Senate without regard to political affiliation and solely on the ground of fitness to perform the duties of the Office, for a term of four years. The Director may continue to act until he has been reappointed or his successor has been appointed.

(c) No person may serve as Director while a candidate for or holder of any elected office, whether municipal, State, or Federal, or while engaged in any other business, vocation, or employment.

(d) The Congress of the United States, by two-thirds vote in each House, may remove the Director from office when, in the judgment of the Congress, he has become permanently incapacitated, or has been guilty of any felony, misconduct, or any other conduct involving moral turpitude, and for no other cause and no other manner except by impeachment.

(e) He shall receive the same salary as Members of Congress.

DUTIES OF THE DIRECTOR

SEC. 4. Upon the request of any Member of either House of Congress, or the request of any standing committee, special committee, or select committee of the House of Representatives or of the Senate, or any joint committee of the Congress, the Director is authorized—

(1) to conduct or cause to be conducted, in such manner as he determines to be appropriate, an appropriate investigation of any administrative action not exempted under section 6, which might be—

(A) contrary to law or regulation;

(B) unreasonable, unfair, oppressive, or inconsistent with the general course of an administrative agency's functioning;

(C) mistaken in law or arbitrary in ascertainments of fact;

(D) improper in motivation or based on irrelevant considerations;

(E) unclear or inadequately explained when reasons should have been revealed;

(F) inefficiently performed; or

(G) otherwise objectionable;

(2) prepare a complete report on the results of the investigation, and furnish a copy of the report to the requesting Member or committee and furnish a copy of the report to the head of the agency concerned with a request for a reply, and, whenever he determines not to investigate, inform the requesting Member or committee of his determination, with his reasons therefor; and

(3) prepare such interim reports to the Congress as he deems appropriate.

(b) Interim reports prepared pursuant to paragraph (3) of the preceding subsection shall be printed as a document, and made available to the public.

ADMINISTRATIVE PROVISIONS

SEC. 5. (a) In order to carry out the provisions of this Act, the Director is authorized to—

(1) appoint and fix the compensation, of such attorneys, clerks, and other personnel as may be necessary to carry on the work of the Office, and such personnel shall be appointed without reference to political affiliations and solely on the basis of fitness to perform the duties of their offices;

(2) promulgate such rules and regulations as may be necessary to carry out his duties under this Act;

(3) delegate authority for the performance of any such duty to any officer or employee of such Office;

(4) request such information, data, and reports from any agency as the Director may from time to time require and as may be produced consistent with other law;

(5) hold private discussions or meetings with either the person complaining of an administrative action under investigation or officers or employees of the agency concerned, or both; and

(6) prepare and submit annually to the President, to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report on the activities of the Office during the previous year.

(b) Upon request made by the Director each agency is authorized to make its information, data and reports (including suggestions, estimates and statistics) available to the greatest practicable extent consistent with other laws to the Director in the performance of his functions.

EXEMPTED MATTERS

SEC. 6. No complaint shall be subject to investigation by the Director under the provisions of this Act if such complaint involves—

(1) any matter certified by the head of any executive department as affecting the relations between the United States and any foreign government or any international organization;

(2) any administrative action concerning the appointment, removal, discipline, benefits or other personnel matters with respect to—

(A) any member of the Armed Forces of the United States;

(B) any officer or employee of the Government of the United States;

(3) any administrative action, which occurred more than one year prior to the date on which the person complaining of such action had actual notice thereof, except in unusual circumstances, the Director may investigate a complaint of an administrative action that would otherwise be exempt under this paragraph;

(4) any administrative action based upon a complaint which the Director determines, in his discretion, to be trivial, frivolous, vexatious, or not made in good faith.

EFFECT OF OTHER LAWS

SEC. 7. The provisions of this Act shall be in addition to the provisions of any other law or regulation under which any remedy or right of appeal is provided for any person, or any procedure is provided for the inquiry into or investigation of any matter, and nothing in this Act shall limit or affect any such remedy, right of appeal, or procedure. The powers conferred on the Director by this Act may be exercised by him notwithstanding any other provision of law to the effect that any administrative action or omission shall be final or that no appeal shall lie in respect thereof.

AUTHORIZATION OF APPROPRIATION

SEC. 8. There are hereby authorized to be appropriated to the Office of Constituent Assistance such sums as may be required for the performance of the duties of the Office under this Act. Amounts so appropriated shall be disbursed by the Secretary of the Senate on vouchers approved by the Office of Constituent Assistance.

SECTION ANALYSIS OF OFFICE OF CONSTITUENT ASSISTANCE ACT

Sec. 1. *Title.*

Sec. 2. *Definitions.* Excludes the following from the jurisdiction of the Director of the Office of Constituent Affairs:

(A) President.

(B) The Congress.

(C) The Courts of the United States.

(D) The Governments of the Territories or Possessions of the United States.

(E) The Government of the District of Columbia.

(F) Agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them.

(G) Courts martial and military commissions.

(H) Military authority exercised in the field in time of war or national emergency.

Sec. 3. *Office Established.* Establishes an Office of Constituent Assistance within the legislative branch, with its Director to be appointed by the Speaker of the House and the President pro tempore of the Senate, upon the advise and consent of the Senate, without regard to political affiliation and solely on the ground of fitness to perform the duties of his office. The Director's term is to be four years, and he may be removed by two-thirds vote in each House if, in the judgment of the Congress, he has become permanently incapacitated, or has been guilty of any felony, misconduct, or any other conduct involving moral turpitude.

Sec. 4. *Duties of the Director.* Upon the request of any Member of either House of Congress or the request of any committee of either House, the Director is authorized to conduct an appropriate investigation of any administrative action which might be—

(A) contrary to law or regulation.

(B) unreasonable, unfair, oppressive, or inconsistent with the general course of the administrative agency's functioning.

(C) mistaken in law or arbitrary in ascertainment of fact.

(D) improper in motivation or based on irrelevant considerations.

(E) unclear or inadequately explained when reasons should have been revealed.

(F) inefficiently performed, or

(G) otherwise objectionable.

The Director is also authorized to prepare a report of each investigation and to furnish a copy of such report to the requesting Member or committee and to the head of the agency involved with a request for a reply.

Sec. 5. *Administrative Provisions.* Authorizes Director to promulgate such rules and regulations as may be necessary to carry out his duties under this Act, to request such information, data, and reports from any agency as the Director may from time to time require, to hold private discussions or meetings with either the person complaining or an administrative action under investigation or officers or employees of the agency concerned, etc. Also authorizes each agency to make information available to the Director to the greatest practicable extent consistent with other laws.

Sec. 6. *Exempted Matters.* Exempts the following from the investigatory jurisdiction of the Director:

(1) any matter certified by the head of any executive department as affecting the relations between the United States and any foreign government or any international organization

(2) any administrative action concerning the appointment, removal, discipline, benefits or other personnel matters with respect to members of the Armed Forces or officers or employees of the U.S. Government

(3) any administrative action which occurred more than one year prior to the date the complainant had actual notice thereof

(4) any administrative action based upon a complaint which the Director determines to be frivolous, vexatious, or not made in good faith.

Sec. 7. *Effect of Other Laws.*

Sec. 8. *Authorization of Appropriation.*

THE PENTAGON PAPERS

Mr. McGOVERN. Mr. President, as part of my effort to make available to the Congress and to the American public

the information that is becoming available through the national press on the origins of American military involvement in Indochina, I call to the attention of the Senate articles published in the Los Angeles Times and in the Knight newspapers. I expect to be able to place in the RECORD material made available in the Chicago Sun-Times at an early date.

The Los Angeles Times report by Stuart Loory shows our unwillingness as early as 1963 to admit that we would be unable to determine the future of Vietnam by military force. So we persisted in our error. The reports in the Knight newspaper show how we gradually slipped deeper into the quagmire, persistently failing to face the reality of the hopeless position we had adopted.

Mr. President, I ask unanimous consent that the documents and summaries in the Los Angeles Times and the Knight newspapers be printed at this point in the RECORD.

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

THE PENTAGON PAPERS: HOW BACKSTAGE STRUGGLE MADE WAR BIG

WASHINGTON.—Portions of the Pentagon history of the Vietnam War were made available to the Inquirer and the Knight newspapers this week.

Previously unpublished material in the document traces the step-by-step escalation of the war—in the air and on the ground—from 1965 until the Great Turnaround of 1968.

It also lays bare a lengthy backstage struggle between military and civilian officials for President Johnson's mind.

Former Defense Secretary Robert S. McNamara, who commissioned the study in June 1967, emerges as a tragic figure who rapidly became disillusioned with the war he had recommended.

From mid-1966 on, McNamara is portrayed in the documents as fighting constantly with his generals and admirals. They wanted to tighten the screws on North Vietnam, while he wanted to level off or de-escalate the war.

Richard Nixon, who was a congressman, senator and Vice President through the first 14 years of the U.S. involvement in Vietnam, hardly appears in the historical papers available to The Inquirer. His two visits to Hanoi in 1953–54 are not even mentioned. The only trace of the man who is now President was his April 1954 speech to the American Society of Newspaper Editors suggesting that the U.S. might intervene in Vietnam.

Highlights of these portions of the Pentagon Papers include:

The United States government encouraged the overthrow of South Vietnamese strongman Ngo Dinh Diem in November 1963, but the papers do not disclose any U.S. implication in his assassination.

Before Diem's ouster, the U.S. was so optimistic of the outcome in South Vietnam that it planned to withdraw all but 1500 troops. Six weeks after Diem was gone, hope had changed to gloom, and McNamara was urging a major escalation of the U.S. role.

McNamara's estimate of the troop commitment which might be needed mushroomed from 275,000 to 600,000 within a three-month period, from August to November, 1965.

By October 1966, McNamara was so disillusioned with the bombing of North Vietnam that he urged it be replaced by a billion-dollar electronic barrier to halt infiltration into South Vietnam.

In May 1967, Assistant Defense Secretary John McNaughton called the ground war "a trap which has ensnared us." Gen. William Westmoreland, the war zone commander, warned that without substantial reinforcements the U.S. would be bogged down in a "meatgrinder" war.

That same month, McNamara in frustration proposed a coalition government in Saigon including non-Communist members of the National Liberation Front.

After McNamara recommended scaling down the bombing, the chairman of the Joint Chiefs of Staff, Gen. Earle Wheeler, said that would be an "aerial Dien Bien Phu" for the allied side.

A panel of outside scientists declared in December 1967 that the bombing had been so unsuccessful that North Vietnam was actually "a stronger military power" than before the raids began.

Despite public assertions by President Johnson and others that the Communist offensive of Tet, 1968 was a disastrous defeat for Hanoi, Gen. Wheeler's private assessment was far gloomier. His report to the President three weeks after Tet found the Saigon forces on the defensive, the pacification program in shambles, and much of the countryside under Communist domination.

The focus in these portions of the Pentagon Papers is on the bitter arguments between military and civilian officials within the Defense Department.

President Johnson remains a shadowy figure until near the end, when the shock of Tet threw open to question the assumptions that underlay three years of escalation.

The papers close with Johnson's historic abdication speech on March 31, 1968—a decision, the Pentagon study says, that "turned American policy toward a peaceful settlement of the war."

"A major corner in the war and in American policy had been turned," the report says. "There was no going back."

BOMBING WAS "COLOSSAL" ERROR

WASHINGTON.—Barely a year after sustained U.S. bombing of North Vietnam began, Defense Secretary Robert S. McNamara had lost faith that it could achieve its objectives.

The Pentagon analyst who wrote a study entitled: "The Air War in North Vietnam" said it was a "colossal misjudgment" to think that the bombing would pressure Hanoi into calling it quits.

Previously published portions of the Pentagon papers revealed the planning that led up to the opening of the bombing campaign—code-named Operation Rolling Thunder—in March 1965.

New documents made available to Knight Newspapers trace in great detail McNamara's growing disillusionment with the policy he had recommended.

By the summer of 1966, a ferocious struggle had developed within the councils of government over the bombing.

The struggle pitted McNamara and many of his civilian advisors, often supported by the CIA, against the generals and admirals in the war zone and on the Joint Chiefs of Staff.

The military leaders consistently recommended more and heavier bombing, the documents show. Toward the end, in 1968, the chiefs, while conceding that the air raids had been ineffective, blamed it on political constraints that had prevented them from attacking key targets.

Just three weeks before President Johnson ordered a partial bombing halt and announced he would not seek re-election, on March 31, 1968, a memorandum from the joint chiefs sought permission to attack Hanoi and the port of Haiphong.

McNamara, on the other hand, had been resisting the escalation of rolling thunder for nearly two years before the bombing halt, the report shows.

In January 1965, when he first recommended Rolling Thunder to President Johnson, McNamara thought it wouldn't have to last more than six months.

In July 1965, realizing that the bombing was falling short of its goals, McNamara urged that the raids be stepped up and expanded to cover most of North Vietnam.

In March 1966, the defense secretary proposed another step-up to take in North Vietnamese petroleum supplies.

This was "the last major escalation of the air war recommended by Secretary McNamara," the Pentagon analyst reports. Thereafter, the balance in his mind was "tipped to favor de-escalation of air attacks," on the north.

In October 1966, McNamara returned from an inspection trip to Vietnam with a gloomy report for the president.

In a memorandum dated Oct. 14, he recommended a leveling off of the U.S. effort and an effort to find a diplomatic solution.

"Pulling back from his previous positions, he now recommended that the President level off the bombing at current levels and seek other means of achieving our objectives," the analyst says.

Instead of escalating the bombing, McNamara suggested a billion-dollar barrier be built across the northern border of South Vietnam and the Ho Chi Minh Trail through Laos.

The barrier of fences, electronic sensors, mines, artillery, aircraft and troops would choke off the infiltration of men and supplies from the North which the bombing had failed to achieve, McNamara felt.

In addition, McNamara recommended a reduction or pause in the bombing in an effort to get peace negotiations started.

The military leaders argued strongly against McNamara's approach. A sharp dissenting memorandum signed by Gen. Earle Wheeler, chairman of the Joint Chiefs of Staff, said the chiefs "do not concur in your recommendation that there should be no increase in level of bombing effort (or that) as a carrot to induce negotiations we should suspend or reduce our bombing campaign against North Vietnam . . .

"Far from inducing negotiations, another bombing pause will be regarded by North Vietnamese leaders, and our allies, as renewed evidence of lack of U.S. determination to press the war to a successful conclusion," the chiefs argued.

"The bombing campaign is one of the two trump cards in the hands of the President (the other being the presence of U.S. troops in South Vietnam). It should not be given up without an end to NVN (North Vietnamese) aggression in SVN (South Vietnam)," he chiefs said.

McNamara won that round, and the bombing was not escalated that fall. The struggle was resumed early in 1967. However, the President eventually yielded to military pressure to intensify Rolling Thunder.

The Pentagon analyst summarized it this way:

"During the first seven months of 1967 a running battle was fought within the Johnson Administration between the advocates of a greatly expanded air compaign against North Vietnam . . . and the disillusioned doves who urged relaxation, if not complete suspension of the bombing . . .

"The 'Hawks' of course were primarily the military, but in wartime their power and influence with an incumbent administration is disproportionate."

"McNamara," the study went on, "led the attempt to de-escalate the bombing." The President and the State Department it said, were "treading the uncertain middle ground."

The battle raged throughout the Spring. On May 19, 1967 McNamara gave Johnson a memorandum proposing, among other things, that the U.S. persuade the Saigon government, as soon as the September elections were over, to "seek a political settlement with the non-Communist members

of the NLF (the Vietcong controlled National Liberation Front)—to explore a cease-fire and to reach an accommodation with the non-Communist South Vietnamese who are under the Vietcong banner, and if necessary to accept their individual participation in the national government."

The chiefs were "in ardent opposition to anything other than a significant escalation of the war," the Pentagon analyst says, and the President did not accept McNamara's proposals.

"The JCS literally bombarded the secretary with memoranda" urging more rather than less bombing, the study says

Gen. Wheeler, on May 24, said a partial or complete cessation of air strikes would allow North Vietnam to recoup its losses, expand its stockpiles and continue to support the war from a sanctuary.

Wheeler compared McNamara's ideas to "an aerial Dien Bien Phu" referring to the famous French defeat at the hands of the Communists in 1954.

In June, Johnson rejected either escalation or de-escalation, but in August, under pressure from the military and hawks in Congerss, he authorized a "selected intensification of the air war," the study says.

At the end of 1967, a group of outside scientists working for the Institute of Defense Analysis, a Pentagon "think tank," gave McNamara what the study called an emphatically negative conclusion about the results of "Rolling Thunder."

"It was probably the most categorical rejection of bombing as a tool of our policy in Southeast Asia to be made before or since by an official or semi-official group," the report said. Some excerpts:

"As of October 1967, the U.S. bombing of North Vietnam has had no measurable effect on Hanoi's ability to mount and support military operations in the South. . . .

"Since the beginning of the Rolling Thunder air strikes, the flow of men and material from NVN to SVN has greatly increased. . . ."

Thanks to aid from the Soviet Union and China, the scientists reported, North Vietnam "is now a stronger military power than before the bombing."

Despite this gloomy outside assessment, the study says the U.S. government began 1968 "in a mood of cautious hope about the course of the war."

Within a month, however, "these hopes had been completely dashed." The Communist Tet offensive of January-February, 1968, showed "that as an interdiction measure against the infiltration of men and supplies, the bombing had been a near total failure . . . The resources necessary to initiate an offensive of Tet proportions . . . had all flowed south in spite of the heavy bombing."

The military reaction, however, was to recommend urgently a step-up in the air war, including raids on previously restricted zones in Hanoi and Haiphong.

The joint chiefs, in a document dated March 4, said the U.S. should "accept greater risks of civilian casualties" in order to make the bombing more effective.

Air Force Secretary Harold Brown, reflecting the military viewpoint said existing restrictions should be "lifted so as to permit bombing of military targets without the present scrupulous concern for collateral civilian damage and casualties."

McNamara, meanwhile, had left the Defense Department on Feb. 28. His successor, Clark M. Clifford, at the President's orders, undertook an "A to Z" reassessment of the whole war effort.

As related elsewhere in this issue, the reassessment led, on March 31, to Johnson's decision to de-escalate the war, halt the bombing north of the 20th parallel, and seek a negotiated settlement.

"Victory" Goal Faded in January–March 1968

Washington.—President Johnson's speech to the nation on March 31, 1968, in which he concluded by announcing his decision not to run for reelection, was begun two months to the day earlier, 10,000 miles away inside the compound of the U.S. Embassy in Saigon.

In those two short months, the glowing military assessments from all quarters in Vietnam had changed. The President had decided that the basis on which he had operated for more than four years—"more of the same"—would no longer work, and that there was a profound disillusionment among his civilian advisers and in the country as a whole.

There is also some indication that the President himself felt disillusioned, if not deceived, by the advice he had been receiving from his military advisers.

This part of the study, encompassing the period from the beginning of the Tet offensive on Jan. 31, and running through the President's speech, tells of a total turnaround in U.S. policies and programs in Vietnam.

The year-end reports from Gen. Westmoreland had been glowing. On the ground the Vietnam and North Vietnamese were losing troops, land and population control. In the air, major damage was being inflicted on North Vietnam and the Ho Chi Minh supply lines.

Within days the Tet offensive was launched. Before it was over some 40 provincial towns, 64 district towns and all the autonomous cities had been attacked. The ancient capital of Hue was actually held for three weeks and the U.S. Command had destroyed the delta provincial capital of Ben Tre "in order to save it."

The Joint Chiefs of Staff immediately began examining plans for reinforcements from the United States. The Pentagon study describes the detailed evaluations, including a conclusion that "whether or not deployments under any of these plans were directed, it appeared that sufficient forces would still be available for civil disorder control."

On Feb. 23, Gen. Earle Wheeler, chairman of the Joint Chiefs, was sent to Saigon by the President to find out "what was really going on." His report, four days later, not only presented a gloomy view of the military situation, but gave his own estimate of the requirements to "resume the offensive in the remainder of the country."

The "extent and magnitude of Gen. Wheeler's request," the analyst says, "stimulated the initiation of a thorough review of the direction of U.S. policy in South Vietnam.

"A fork in the road had been reached. Now the alternatives stood out in stark reality. To accept and meet Gen. Wheeler's request for troops would mean a total U.S. military commitment to South Vietnam—an Americanization of the war, a callup of reserve forces, vastly increased expenditures.

"To deny the request for troops, or to attempt to again cut it to a size which could be sustained by the thinly stretched active forces, would just as surely signify that an upper limit to the U.S. military commitment had been reached."

Clark Clifford was not to become secretary of defense until the next day, but on Feb. 29 he convened his first meeting in his new role.

"Mr. Clifford outlined the task as he had received it from the President," the Pentagon analysis says.

"He indicated to the group that he felt that the real problem to be addressed was not whether we should send 200,000 additional troops to Vietnam. The real questions were: Should we follow the present course in South Vietnam, could it ever prove successful even if vastly more than 200,000 troops were sent?"

In the end, a draft memorandum was prepared for the President, recommending a "demographic frontier," protecting the populated areas and conducting "spoiling raids, long-range reconnaissance patrols and, when appropriate targets are located, search-and-destroy operations into the enemy's zone of movement in the unpopulated areas between the demographic and the political frontiers."

Gen. Wheeler protested vehemently. This he said, would result in fighting in and closer to the cities. Warnke replied that Tet showed the Vietcong could fight in the cities whenever they wanted to, anyway.

No real decision had been made, and the working group, according to a badly constructed metaphor, when faced" with a fork in the road of our Vietnam policy . . . seemed to recommend that we continue rather haltingly down the same road, meanwhile consulting the map more frequently. . . ."

It was up to the President to make the choice.

On March 22 Gen. Westmoreland was recalled from Vietnam to become Army Chief of Staff. Four days later Gen. Creighton Abrams, Westmoreland's deputy and then successor, arrived unannounced in Washington and was closeted with the President.

On the night of March 31 the President was on television. He announced the bombing restriction and held out hope for a bombing halt. He laid the burden on South Vietnam in stronger terms than ever before. He invited peace talks and then, as a final gesture, removed himself from the Presidential race. The results are still to come, but what Lyndon Johnson did by himself was to seek a new road, a new strategy.

Why, the analyst asks, did he take these steps if he expected so little? And the answer offered is that his decision was based on two considerations: more of the same would not work and a "deeply felt conviction of the need to restore unity to the American Nation."

As another analyst wrote in another section of the Pentagon study, "a major corner in the war and in American policy has been turned and . . . there was no going back."

Nixon's Support for U.S. Viet Role Is Barely Noted

Washington.—Richard Nixon, who was a congressman, senator, and the Vice President as the U.S. waded into Vietnam, is barely mentioned in those Pentagon documents made available to Knight Newspapers.

A strong anti-Communist and an advocate of containment during the early years of American involvement, Nixon twice visited Hanoi as Vice President before it was taken over by the Communists in 1954.

And because of the government's efforts to stop publication of the Pentagon documents, it has been speculated that the Administration fears embarrassment from possible disclosures of the President's early role.

But his role receives virtually no mention in the Pentagon study's detailed analysis of the Eisenhower Administration's deepening commitment to South Vietnam.

The document's author recalls that on April 17, 1954, Vice President Nixon, at the behest of President Eisenhower, made a speech before the American Society of Newspaper editors meeting in Washington, suggesting that the U.S. may be required to "take the risk by putting our boys in" in order to avoid "further Communist expansion in Asia and Indochina."

The "trial balloon," as Eisenhower later called it, was deflated by public opinion. And according to the Pentagon analyst, it helped put a crimp in the plans of then Secretary of State John Foster Dulles to mobilize international "united action" to aid the French, whose forces were then under siege at Dien Bien Phu.

The coalition idea came apart and Dulles, who died in 1959, labored tirelessly to prevent a Communist takeover of any part of Vietnam.

Dulles' chief ally in the high councils of the government was Adm. Arthur F. Radford, chairman of the Joint Chiefs of Staff.

And at one point, during the battle of Dien Bien Phu, Radford proposed to the French that American aircraft make a night raid against the enemy on the perimeter surrounding the beleaguered French forces.

"The plan, named Operation Vulture," the analyst writes, "called for about sixty B–29s to take off from Clark Field near Manila, under escort of 150 fighters of the U.S. Seventh Fleet . . ."

The plan did not go past the stage of informal talks. But on April 3, 1954, Dulles and Radford sounded out eight congressmen on the possibility of using 200 carrier aircraft against the Communists at Dien Bien Phu. They did not get support and the plan was abandoned.

Having failed to obtain approval for an air strike, and with the collapse of Dien Bien Phu, the analyst writes, Dulles urged the French to fight on and to refuse to negotiate with the Communists.

Dulles was convinced that the fall of any part of Vietnam to the Communists would result in a takeover of Indochina. In this view he followed the "domino theory," which had been introduced during the Truman Administration.

However, when the French agreed to a settlement with the Communists which gave them control of northern Vietnam, the analyst recalls that Dulles reappraised the domino theory.

Four months later, in September 1954, Dulles' new long-range approach to united action brought the Southeast Asia Treaty Organization into being. And in October, the analyst says, the President ordered the Joint Chiefs of Staff to prepare "a long-range program for the organization and training of a minimum number of Free Viet forces necessary for internal security."

At the same time, and over the objections of France, Dulles gave his backing to Ngo Dinh Diem, who was pushing aside the Emperor Bao Dai, on his way to the top of the South Vietnam government.

Diem's rise with U.S. help almost caused a break in American relations with France. But the American secretary of state continued his support for Diem, which ultimately helped to drive France out of Vietnam altogether in 1955.

It was during this period, the analyst writes, that "the anti-Communist moralism of Dulles and Diem rejected any rapprochement with the North, ultimately insuring that the temporary military demarcation line would become a permanent division of Vietnam."

DIEM'S FALL ENDED HOPES FOR PULLOUT AND TRIGGERED WAR'S ESCALATION

WASHINGTON.—The U.S., in the fall of 1963, encouraged the overthrow of South Vietnam's President, Ngo Dinh Diem, and planned a phased withdrawal of all but 1500 American troops by 1967.

The first, small pullout had been announced, and a Pentagon study on the roots of the war discloses that others were contemplated, if necessary, in time for President Kennedy's 1964 reelection campaign.

It was hoped that the withdrawal and pulling out the props from under Diem would stiffen the South Vietnamese determination to stand on their own feet and thus soften the attitude of the Communists.

But instead, the Pentagon analyst concludes, the removal and assassination of Diem, a pivotal figure in the origins of American involvement, led within a few months to abandonment of all plans for withdrawal and to an open-ended American escalation of the war.

Diem and his family had ruled South Vietnam imperiously since he rose to power in 1954–56, and he had been a sore subject of controversy between the U.S. and France, and among American policymakers. But he was a strong man, and for the sake of stability, the U.S. supported him.

In November, 1961, however, the Kennedy Administration was considering a limited increase in aid to South Vietnam. But it was worried about the growing unpopularity of Diem, his ability to lead his forces against the Communists, and the lack of reform.

The President, the analyst reports, sent his friend John Kenneth Galbraith, then ambassador to India, to visit Saigon and give his impressions of the situation.

Galbraith, according to the Pentagon documents, became the first Kennedy confidant to recommend Diem's ouster.

On November 20, in a private cable to the President, Galbraith said: "There is scarcely the slightest practical chance that the administrative and political reforms now being pressed upon Diem will result in real change . . . there is no solution that does not involve a change in government."

"On the insurgency," the analyst comments, "Galbraith was optimistic, provided Diem was replaced."

"The comparatively well-equipped" South Vietnamese, Galbraith cabled, are "facing a maximum of 15–18,000 lightly armed men. If this were equality, the U.S. would hardly be safe against the Sioux . . . given even a moderately effective government and putting the relative military power into perspective, I can't help thinking the insurgency might very soon be settled."

The following day, from New Delhi, Galbraith sent a more detailed, more emphatic cable to Kennedy, which said, in part:

"The key and inescapable point, then, is the ineffectuality (abetted debatably by the unpopularity) of the Diem government. This is the strategic factor . . . it is a cliche that there is no alternative to Diem's regime . . . we should not be alarmed by the army as an alternative."

Galbraith, the analyst says, helped convince Kennedy to limit the American commitment to Diem. But the U.S. continued to back him.

Less than two years later, however, in the spring and summer of 1963, Buddhist leaders revolted against Diem. And on July 4, the State Department sent a memo to the President cautioning him that the overthrow of Diem was possible.

Although it is not part of the documents made available to the Knight newspapers, the Chicago Sun-Times has obtained a copy of another memo, written Aug. 30, by then Assistant Secretary of State Roger Hilsman to then Secretary of State Dean Rusk.

The Sun-Times said the memo indicated that Hilsman had advance knowledge of the coming coup and the group of military officers who intended to lead it. Hilsman recommended they be encouraged to "move promptly" and that Diem and his family not be permitted to remain in the country.

There is no indication in the documents made available to Knight Newspapers that the State Department or the President actually approved Hilsman's recommendations.

Indeed, the author of the Pentagon study—says that while the Pentagon's defense intelligence agency foresaw a coup, Rusk and then Secretary of Defense Robert McNamara, during a review of the problem for Vice President Johnson on Aug. 31, agreed "that the U.S. would not pull out of Vietnam until the war was won, and that it would not participate in a coup d'etat against Diem."

However, the U.S. proceeded in the next two months to pull the rug out from under Diem.

In early October, Kennedy sent McNamara and Maxwell Taylor, then Chairman of the Joint Chiefs of Staff, on a mission to Saigon.

The author of the study says Taylor told Diem his troops were not taking enough actions against the enemy, adding that "only a ruthless, tireless offensive can win the war."

McNamara and Taylor also conveyed to Diem the sense of a letter the President had considered sending.

According to the analyst, the letter "laid down an ultimatum: unless the (South Vietnam government) changed the repressive policies, methods, and actions practiced by some individual officials and gained for itself a broad base of popular political support, the U.S. might have to consider disassociating itself from the Diem government, and further U.S. support of Vietnam might become impossible."

Three days later, after McNamara and Taylor met with the President and the National Security Council, the State Department sent instructions to Henry Cabot Lodge, then the American ambassador in Saigon.

THE PENTAGON PAPERS: DOUBTS ABOUT GROUND WAR AROSE QUICKLY

WASHINGTON.—The U.S. Government harbored high hopes of complete military victory in South Vietnam as it escalated the ground war there in 1965, but was overtaken by serious doubts within a year.

The key decisions which increased the American troop commitment from 70,000 to an eventual peak of 549,000 were made within a period of a few months in 1965.

But by the fall of 1966, serious disillusionment with the escalation had surfaced within the civilian leadership at the Pentagon, leading to a widening split between top civilians and the military brass from that point on.

These points are disclosed by previously unpublished portions of the secret Pentagon Papers which were made available to Knight Newspapers.

Parts of the Pentagon study received by the New York Times have shown that President Lyndon Johnson and his top advisers decided on April 1, 1965, to commit U.S. troops to ground combat in Southeast Asia.

But the additional documents made available to Knight Newspapers detail the chronology of the heavy escalation of the ground war, followed by growing disenchantment at the highest levels of government.

By May of 1967, Assistant Secretary of Defense John McNaughton was to sum up this disappointment by assessing the ground-war strategy as a "trap which has ensnared us."

The Pentagon Papers show that, following the President's pivotal April 1 decision to allow ground action by American troops, optimism reigned within the government.

Gen. William Westmoreland, U.S. commander in Vietnam, successfully proposed a three-stage strategy to:

Bring in enough U.S. troops to halt the losing trend by the end of 1965.

Raise troop levels to allow the U.S. to take the offensive on the ground by June 1966.

Substantially defeat the enemy by the end of 1967.

The study notes that Defense Secretary Robert McNamara and other top U.S. officials accepted this military estimate that the North Vietnamese and Vietcong could be decisively beaten through heavy commitment of American ground forces.

By late July of 1965, McNamara and the President had approved Joint Chiefs of Staff requests that troop levels rise to 175,000 by the end of the year, and to 275,000 by the end of 1966.

These plans were based on a rule-of-thumb that a four-to-one superiority ratio of "free world" troops to the enemy forces should be maintained.

In a memorandum to the President on July 20, 1965, McNamara predicted optimis-

tically that the increased troop commitments should "make a significant difference in the kind of war which seems to be revolving in Vietnam—a 'third stage' or conventional war in which it is easier to identify, locate and attack the enemy."

". . . The U.S. killed-in-action might be in the vicinity of 500 a month by the end of the year," McNamara's memorandum continued.

"The South Vietnamese under one government or another will probably see the thing through and the United States public will support the course of action because it is a sensible and courageous military-political program designed and likely to bring about a success in Vietnam."

The only sign of governmental caution evident at this point in the study's chronology was the President's refusal of a Pentagon request to call civilian reservists to active duty.

ENEMY REBOUNDS

But within a short time it became evident that the North Vietnamese had unexpectedly accelerated infiltration of troops into South Vietnam, increasing enemy strength so sharply as to effectively match the U.S. raising of the ante.

This bad news from the field brought a quick and drastic upward revision of Washington's plans, and led directly to the eventual commitment of more than half a million men.

It also turned up the first hint of pessimism on the part of McNamara.

On Nov. 7, 1965, says the study, the defense secretary felt obliged to caution the President that "odds are even that despite our effort, we will be faced in early 1967 with stagnation at a higher level and with a need to decide whether to deploy (additional) forces, probably in Laos as well as in South Vietnam."

After a hastily-arranged trip to Saigon later in the month, McNamara returned even more sobered by his first-hand investigation of the enemy's increased pressure.

On Nov. 30, he reported to the White House that the targeted 275,000-man troop level would apparently suffice only "to hold our present geographical positions."

"To stick without stated objective and win the war," he continued, would now require that the troop-level target be upped by 275,000 to 400,000 by the end of 1966. And the secretary's analysis foresaw also the "possible need for an additional 200,000 in 1967," relates the Pentagon study.

This would have brought the U.S. troop commitment to 600,000, a total never actually reached.

But even while speculating about a force level almost double what he had envisioned only three months earlier, McNamara was continuing to raise caution signals.

Even such increased force "will not guarantee success," he warned the President.

Instead, McNamara estimated the odds continued about even that the enemy would continue to match the U.S. buildup and that "even with the recommended deployments, we will be faced in early 1967 with a military standoff at a much higher level, with pacification still stalled, and with any prospect of military success marred by the chance of an active Chinese intervention."

But despite these worries McNamara continued to press for escalation of the force levels. The following April, the Joint Chiefs of Staff were asking that arrival of reinforcements be stretched out, but McNamara pressed them to have 413,557 American troops in Vietnam by the end of 1966.

Later, in June, this year-end target was compromised at 391,000 as a result of continued military complaints that they could not meet a faster timetable without a reserve callup.

THE CHIEFS INSIST

Indeed, throughout the entire 1965–1968 period, the joint chiefs continued to press for mobilization of reserves and the President continued to refuse.

As 1966 unfolded, the shape of the war changed again, with the enemy shifting his strategies in the face of increased U.S. force.

As the massive inputs of U.S. force began to be felt in battle, the news got better, and the Communists sustained heavy losses. This led Ambassador Henry Cabot Lodge to report from Saigon on August 10 ". . . never have things been going better . . ."

But even as optimism rose about successes in "main force" engagements, alternate problems began to cast heavy shadows.

For one thing, Lodge and others reported that "pacification"—the long-run objective of rooting out the Vietcong influence throughout the countryside—continued to be ineffective, and called for far greater military concentration in this field.

But at the same time, Gen. Westmoreland was becoming preoccupied with the separate problem of the "sanctuaries," a fresh inflammation of an old Vietnam sore.

Westmoreland found that as heavy U.S. force made it hot for the North Vietnamese to operate within South Vietnam, they simply withdrew to their familiar sanctuaries in neighboring Laos and Cambodia and north of the demilitarized zone where they could pose a constant threat to wide * * * of Vietnam.

On Aug. 10, Westmoreland reported to his superiors that the enemy "has increased his rate of infiltration, formed division-sized units, introduced new weapons into his ranks, increased his use of Cambodia as a safe haven, and recently moved a combat division through the DMZ."

Reflecting these various concerns, the joint chiefs of staff continued to press for more and more men. On Oct. 7, 1966, they requested a full-blown callup of 688,500 reservists by December.

Without specifically documenting his conclusion, the anonymous Pentagon study author observes there was evidence to suggest at this juncture that "some military men felt that winning a meaningful military victory in Vietnam would require something on the order of one million men. Knowing that this would be unacceptable politically, it may have seemed a better bargaining strategy to ask for increased deployments incrementally."

After consultation with Westmoreland, Pacific Theater Commander Amd. U.S. Grant Sharp was pressing in the fall of 1966 to authorize troop strength at an all-time high of 570,000 by the end of 1967.

But at this point, the study indicates, McNamara's disenchantment with the ground-war strategy had deepened, and a major redirection in U.S. policy resulted.

The secretary went to * * * wrote the President a long, gloomy memo dated Oct. 14, 1966.

In the nine-page excerpt quoted in the Pentagon study, McNamara said:

Despite heavy losses in battle "there is no sign of an impending break in enemy morale and it appears he can more than replace his losses by inflation . . . and recruitment . . ."

"We find ourselves—from the point of view of the important war (for the complicity of the people)—no better, and if anything worse.

"The prognosis is bad that the war can be brought to a satisfactory conclusion within the next two years."

Clearly disillusioned with the strategy of the past year, the secretary called for a troop-level ceiling of 470,000, fully 100,000 less than sought by the military.

This McNamara memo was "the first clear 'no' " to military pressure for force increases, the Pentagon study notes. "From this time on, the judgment of the military as to how the war should be fought and what was needed would be subject to question."

The joint chiefs protested vigorously, according to the Pentagon study, but the President upheld McNamara and on November 11 the 470,000 troop limit was formally imposed.

The succeeding year—1967—saw a constant tug-of-war between the military brass and the increasingly skeptical civilian chiefs in the Pentagon, while public opposition to war increased at home.

During the spring, Gen. Westmoreland pressed hard for another major infusion of troops.

During a conference with the President in Washington in April, the U.S. commander predicted direly that adherence to the 470,000-man ceiling would bog the U.S. down in a "meatgrinder" war which could drag on for at least five years.

TET OFFENSIVE CREATED WIDE "CREDIBILITY GAP"

WASHINGTON.—The 1968 Tet offensive in South Vietnam was launched on Jan. 31, 1968.

It ended 25 days later when the last contingents of North Vietnamese and Vietcong forces were "rooted out of their strongholds" in the ancient city of Hue.

Who won?

Pentagon papers which have come into the hands of Knight Newspapers raise the question anew, with answers starkly different from assessments given the American public by the U.S. commander in Vietnam, Gen. William C. Westmoreland, at the time, and the answer given by Lyndon Johnson to Walter Cronkite on a CBS News special broadcast on Feb. 6, 1970.

And those answers, in turn, were radically altered from the optimistic reports Westmoreland had sent the Joint Chiefs of Staff a month earlier in his year-end report.

Calendar year 1967, the Pentagon analyst quotes Westmoreland as reporting, "had been marked by steady free world progress, a noticeable deterioration of the enemy's combat effectiveness, and his loss of control over large areas and population.

"During 1967, the enemy lost control of large sectors of the population. He faces significant problems in the areas of indigenous recruiting, morale, health and resources control. Voids in VC ranks are being filled by regular NVA (North Vietnam Army). Sea infiltration through the market time area has diminished to near-insignification proportions.

"Interdictions of the enemy's logistics train in Laos and NVA by our indispensable air efforts has imposed significant difficulties on him.

"In many areas the enemy has been driven away from the population centers. In others he has been compelled to disperse and evade contact, thus nullifying much of his potential. The year ended with the enemy increasingly resorting to desperation tactics in attempting to achieve military/psychological victory and he has experienced only failure in these attempts."

In his interview with Cronkite, President Johnson said that he had been given an "accurate" estimate of the Tet results by his military chiefs—"In the light of developments since. Once, that the Communists had suffered a disaster, a debacle, and a serious military loss. I don't think that ever got communicated to the American people. But they lost as many people at Tet as we have in the entire war, just that one—that one misguess."

Westmoreland, he said, has expected the attack. He had told the President of an enemy buildup in the fall of 1967, and had

canceled leaves for his troops. "He did inform me from time to time that "we're getting ready for it."

The Pentagon study, which started in mid-1967 and continued until mid-1968 does not discuss the Cronkite interview, but it does say that "The enemy's Tet offensive, which began with the attack on the U.S. Embassy in Saigon on January 31, 1968, although it had been predicted, took the U.S. Command and the U.S. public by surprise, and its strength, its length and its intensity prolonged this shock."

And the analyst reports in detail the estimate made by the Joint Chiefs of Staff and particularly the Chairman, Gen. Earle Wheeler, immediately after the Tet offensive.

In order to ascertain the situation in South Vietnam after the offensive, the President sent Gen. Wheeler to Saigon on Feb. 23. His report was presented to the President four days later. It was not an encouraging view from the White House perspective.

"The enemy failed to achieve his initial objective, but is continuing his effort," Wheeler wrote. "Although many of his units were badly hurt, the judgment is that he has the will and the capability to continue.

"Enemy losses have been heavy, he has failed to achieve his primary objectives of mass uprisings and capture of a number of capital cities and towns. Morale in enemy units which were badly mauled or were the mene were oversold the idea of a decisive victory at Tet probably has suffered severely. However, with replacements, his indoctrination system would seem capable of maintaining morale at a generally adequate level. His determination appears to be unshaken.

"The enemy is operating with relative freedom in the countryside, probably recruiting heavily and no doubt infiltrating NVA units and personnel. His recovery is likely to be rapid, his supplies are adequate and he is trying to maintain the momentum of his winter-spring offensive.

"The structure of the GVN (Government of Vietnam) held up but its effectiveness has suffered.

"The RVNAF (South Vietnamese Armed Forces) held up against the initial assault with gratifying, and in a way, surprising strength and fortitude. However, ARVN (the South Vietnamees Army) is now in a defensive posture around towns and cities and there is concern about how well they will bear up under sustained pressure.

"The initial attack nearly succeeded in a dozen places, and defeat in those places was only averted by the timely reaction of U.S. forces. In short, it was a very near thing.

"There is no doubt that the RD program (pacification) has suffered a severe setback."

The U.S. forces were not badly hurt, Gen. Wheeler said, and the South Vietnamese were not hurt badly physically, but "their problems are more psychological than physical."

In particular, he said, the Vietcong controlled the countryside while the South Vietnamese army was staying close to the cities.

STUDY DETAILS DIEM'S LOSS OF U.S. FAITH

(By Stuart H. Loory)

(The following story was originated and distributed from the Los Angeles Times:)

Advised for the first time that the United States faced a can't-win situation in the Vietnam war, President Kennedy's National Security Council in August, 1963, rejected the recommendation of a State Department expert on Vietnam to pull out honorably the Pentagon's top secret history of the war shows.

Instead, Secretary of State Dean Rusk put down such talk from one of his subordinates as "speculative," saying:

"It would be far better for us to start on the firm basis of two things—that we will not pull out of Vietnam until the war is won, and that we will not run a coup."

The expert overruled by Rusk was Paul H. Kattenburg, then head of the State Department's Vietnam working group, who had dealt with South Vietnam's President Ngo Dinh Diem for 10 years. Then Vice President Lyndon B. Johnson and Secretary of Defense Robert S. McNamara, among other important officials, backed Rusk's view, the account says.

The report on the session, held at the State Department and chaired by Rusk in President Kennedy's absence, is contained in a memorandum.

The memorandum was written by Marine Maj. Gen. Victor C. Krulak, then the Pentagon's top expert on counterinsurgency.

Krulak's memorandum is included in previously unpublished sections of the report which The Los Angeles Times has obtained. The sections are from the same Pentagon study that were the subject of previous stories in The New York Times, The Washington Post and The Boston Globe. It was prepared by a team of Pentagon analysts under a directive from McNamara in 1968. The analysts had access to documents only on file in the Defense Department. The analysts did not have access to the complete files at the White House or State Department.

The meeting Krulak describes was called as a "where-do-we-go-from-here" session after a group of Saigon generals had failed to bring off a coup against the increasingly unpopular regime headed by Diem.

The meeting was a key session in the period from May to November, 1963, during which non-Communist opposition to the Diem regime grew rapidly and eventually boiled over into the overthrow of Diem and the assassination of him and his brother Ngo Dinh Nhu on Nov. 2.

This account focuses on this period, during which the Kennedy administration vacillated between opposing a coup, supporting it and then settled on an attitude of not thwarting it if one had promise of being successful.

During the course of the National Security Council session, Kattenburg advanced the suggestion that, in Krulak's words, "at this juncture it would be better for us to make the decision to get out honorably."

The complete text of Krulak's report on Kattenburg's presentation said:

"8. Mr. Kattenburg stated that as recently as last Thursday it was the belief of Ambassador (Henry Cabot) Lodge (Jr.) that, if we undertake to live with this repressive regime, with its bayonets at every street corner and its transparent negotiations with puppet bonzes, we are going to be thrown out of the country in six months.

"He stated that at this juncture it would be better for us to make the decision to get out honorably. He went on to say that, having been acquainted with Diem for 10 years, he was deeply disappointed in him, saying that he will not separate from his brother. It was Kattenburg's view that Diem will get little support from the military and, as time goes on, he will get less and less support and the country will go steadily down hill.

"9. Gen. (Maxwell D.) Taylor (then Chairman of the Joint Chiefs of staff) asked what Kattenburg meant when he said that we would be forced out of Vietnam within six months. Kattenburg replied that in six months to a year, as people see we are losing the war, they will gradually go to the other side and we will be obliged to leave.

"Ambassador (Frederick) Nolting (who had just left his post in Saigon to be replaced by Lodge) expressed general disagreement with Mr. Kattenburg. He said that the unfavorable activity which motivated Kattenburg's remarks was confined to the city and, while city support of Diem is doubtless low now, it is not greatly so. He said that it is improper to overlook the fact that we have done a tremendous job toward winning the Vietnam war, working with the same imperfect, annoying government."

Rusk dismissed the view and McNamara agreed. Rusk then went on to say there was "good proof," in Krulak's term, that the war was being won, Vice President Johnson agreed, saying that from both a practical and a political viewpoint, it would be a disaster to pull out; that we should stop playing cops and robbers and get back to talking straight to the GVN (Saigon government) and that we should once again go about winning the war."

The Pentagon report on the meeting was sharply critical of the deliberations. It spoke of the officials' "rambling inability to focus the problem, indeed to reach common agreement on the nature of the problem."

The report continues:

"More importantly, however, the meeting is the first recorded occasion in which someone followed to its logical conclusion the negative analysis of the situation—i.e., that the war could not be won with the Diem regime, yet its removal would leave such political instability as to foreclose success in the war; for the first time it was recognized that the U.S. should be considering methods of honorably disengaging itself from an irretrievable situation.

"The other alternative, not fully appreciated until the year following, was a much greater U.S. involvement in and assumption of responsibility for the war. At this point, however, the negative analysis of the impact of the political situation on war effort was not shared by McNamara, Taylor, Krulak, nor seemingly by Rusk."

The documents accompanying the account of the precoup period show that Kattenberg's gloomy assessment of the situation dovetailed with the views expressed by South Vietnamese Gen. Duong Van Minh, known as Big Minh, in secret contacts with Lodge.

The disclosure of Minh's role in privately advising the American ambassador on conditions in South Vietnam during the Diem era has special relevance today. Minh is expected to be the leading opponent to President Nguyen Van Thieu in this October's election.

Outwardly that spring, the study says, the regime "seemed to exhibit no more signs of advanced decay or imminent demise than might have been discerned since 1958 or 1959," when Diem was at the peak of his popularity.

But Nhu, the head of the secret police and the important strategic hamlet program, was growing more and more dominant over his brother the president, the report notes.

Nhu's wife, the report notes, was developing a private obsession of her own.

ISOLATION NOTED

The regime was growing more isolated from the people. The report says "the regime, in fact, had no real base of political support and relied on the loyalty of a handful of key military commanders to keep it in power by forestalling any overthrow. The loyalty of these men was bought with promotion and favors. Graft and corruption should also have drawn concern, even if governmental dishonesty was endemic in Asia, and probably not disproportionate at that time in South Vietnam."

These facts were not comprehended by U.S. officials at the time. Instead, the line was typically expressed in a briefing for McNamara at a strategy conference in Honolulu in May. The paper read:

"The overall situation in Vietnam is improving. And in the military sector of the counterinsurgency, we are winning. Evidences of improvement are clearly visible, as the combined impact of the programs which involve a long lead time begin to have effect on the Vietcong."

Meanwhile, relations between Washington and Saigon were beginning to deteriorate to the point where those matters, rather than the war, began to preoccupy both capitals.

The train of events leading to the Diem regime's downfall and the following escalation of the American involvement in the Vietnam war began on May 8, 1963, at a celebration of Buddha's birthday in the ancient city of Hue, where the Buddhists were defying a government ban on the flying of religious flags.

ANNIVERSARY FETE

The ban had been put into effect by the government after such flags were similarly flown in Hue a month earlier at a ceremony commemorating the 25th anniversary of Ngo Dinh Thuc, the Roman Catholic primate in Vietnam. Thuc was Diem's other brother and a close adviser to the South Vietnamese president.

The Diem family took the Buddhist flag-flying as an affront. A Catholic deputy province chief ordered his troops to fire to disperse the crowd. Nine were killed, including some children. Armored vehicles allegedly crushed some in the crowd.

The Diem government released a statement that the disorder was started by a Vietcong grenade and that victims had been crushed in a stampede.

The next day, more than 10,000 Buddhists in Hue took part in a protest, beginning the long series of Buddhist protests that included the now-famous self-immolations of Buddhist monks in South Vietnam's cities.

At first Diem refused to negotiate with the Buddhists and then, on June 16, he reached an agreement that he subsequently refused to carry out.

By July, an American national intelligence estimate—the combined best judgment of all American fact-finding agencies—foresaw a summer of demonstrations and a possible noncommunist coup attempt against Diem if he made no effort to conciliate the Buddhists.

But the U.S. mission in Saigon, the study says, failed to see the realities of the situation. It says:

At a White House meeting in early July, President Kennedy discussed the possibility of a coup with Under Secretary of State George Ball; W. Averell Harriman, Under Secretary for Political Affairs; McGeorge Bundy, White House National Security Affairs adviser; Roger Hilsman, Assistant Secretary of State for Far Eastern Affairs, and Michael Forrestal, a member of Bundy's staff.

GROUP CONSENSUS

The group agreed, according to a Hilsman memorandum, "that it would not be possible to get rid of the Nhus." Hilsman said a coup would "most likely" result in a civil war in Vietnam—a civil war that would take place alongside the fight against the Vietcong insurgency.

The White House session appears to be the first time that a coup was considered at the highest level in Washington.

Meanwhile, optimistic reports continued to flow from the field. Gen. Krulak reported that the political strife had not hurt the war effort. But American correspondents in Saigon were reporting the situation differently and the Pentagon study says those newspaper accounts were "in retrospect, nearer the reality."

During the summer, President Kennedy replaced Nolting with Lodge, who had long experience in Southeast Asia. While the new ambassador was preparing to go to his post, Nhu arranged the famous Aug. 21 raids on the pagodas in Saigon, Hue and all the other major cities. The buildings were ransacked. More than 1,400 monks were arrested; 30 were injured or wounded in Saigon's Xa Loi pagoda alone.

The raids were carried out by special forces troops, trained by the United States government, and Nhu's combat police, although Nhu contrived in a number of ways to make it appear as if the Army had conducted them.

EMBASSY UNAWARE

The American embassy was kept in the dark, though American correspondents learned of the impending action.

"It was several days before the U.S. mission in Saigon and officials in Washington could piece together what had happened," the Pentagon study notes.

Not only were the raids a major challenge to the Buddhists by the Catholic Diem regime, they also were an affront to Lodge. He went immediately to Saigon to take up his new post, arriving the day after the raids.

That same day, the study notes, South Vietnamese generals made their first inquiries about U.S. reaction to a possible coup against Diem, at the same time expressing puzzlement over why the Americans were blaming the Army for the raids.

Lodge cabled Washington implicating Nhu as the organizer of the raids, noting the inquiries from the generals and asking for instructions on Aug. 24, which was a Saturday.

Hilsman, Harriman, Ball and Forrestal moved quickly and decisively, giving approval for American support of a coup. As it happened, most of the top-level members of the government were out of town—Mr. Kennedy at Hyannisport; Rusk, New York; and McNamara and John A. McCone, director of the Central Intelligence Agency, on vacation. For this reason, the Hilsman group's instructions to Lodge subsequently were to become very controversial.

The Hilsman group's cable to Lodge said:

"It is now clear that whether military proposed martial law or whether Nhu tricked them into it, Nhu took advantage of its imposition to smash pagodas with police and . . . special forces loyal to him, thus placing onus on military in eyes of world and Vietnamese people. Also clear that Nhu has maneuvered himself into commanding position.

DIEM OBDURATE

"U.S. government cannot tolerate situation in which power lies in Nhu's hands. Diem must be given chance to rid himself of Nhu and his coterie and replace them with best military and political personalities available.

"If in spite of all your efforts, Diem remains obdurate and refuses, then we must face possibility that Diem himself cannot be preserved.

". . . You may also tell appropriate military commanders we will give them direct support in any interim period of breakdown central government mechanism. . .

"Concurrently with above, ambassador and country team should urgently examine all possible alternative leadership and make detailed plans as to how we might bring Diem's replacement if this should become necessary. . . .

"Needless to say, we have held knowledge of this telegram to minimum essential people and assume you will take similar precautions to prevent premature leaks."

Lodge quickly endorsed the strong position, proposing even not to bother with a final approach to Diem. He cabled Washington:

"Believe that chances of Diem meeting our demands are virtually nil. At the same time by making them we give Nhu chance to forestall or block action by military. Risk, we believe, is not worth taking, with Nhu in control combat forces Saigon. Therefore, we propose to go straight to generals with our demands, without informing Diem. Would tell them we prepared have Diem without Nhu but it is, in effect, up to them time, he instructed the Voice

Meanwhile, according to the study, CIA station chief John Richardson was reporting that prospects of a coup succeeding were favorable, with Big Minh emerging as the most likely post-coup government head.

At this point, those conducting the Pentagon study could not find cable traffic in the Pentagon files to adequately follow the story. They relied on Hilsman's book, "To Move a Nation," to state that Washington decided, on Sunday, to agree with Lodge not to approach Diem.

To keep Diem in the dark, Lodge and the State Department had agreed on a complicated technique for threatening, through leaked news reports, to suspend economic aid if he did not purge Nhu, thus not making such a threat official.

The clash in views between Harkins and Lodge was to grow to the point that by late October, Harkins was complaining to higher military authorities that Lodge was not showing him important cable traffic. And Lodge would be complaining that in his absence, Harkins should not be left in charge of the American team.

The debate within the National Security Council grew "testy," in the study's word, and concerned President Kennedy so much that he cabled Harkins and Lodge to each submit to him their "independent judgment." Lodge replied:

"We are launched on a course from which there is no respectable turning back: the overthrow of the Diem government. There is no turning back in part because U.S. prestige is already publicly committed to this end in large measure and will become more so as the facts leak out. In a more fundamental sense, there is no turning back because there is no possibility, in my view, that the war can be won under a Diem administration, still less that Diem or any member of the family can govern the country in a way to gain the support of the people who count, i.e., the educated class in and out of government service and military—not to mention the American people."

Harkins replied that Diem should be given an ultimatum to remove Nhu and that after that, there would be time to back the generals. The study does not quote Harkins as it does Lodge.

At a National Security Council meeting, McNamara backed Harkins, the study says, "but the issue was not decided." Rusk cabled Lodge about presenting the ultimatum. Lodge opposed the idea, not wanting to make any approach to Diem.

Meanwhile, the abortive coup died quietly. An obscure colonel sought out a CIA officer on Aug. 30 and reported, according to the study, "that for the moment the plans of his group had stopped because the risk of failure was too great."

In September, the Kennedy administration fell into a long period of soul-searching and fact-finding. The month began, however, with a statement by Mr. Kennedy on a television news program reaffirming the American commitment to help the Diem regime if Diem would change personnel and develop policies bringing it into closer contact with the South Vietnamese people. Mr. Kennedy's talk of personnel changes was taken as a hope that Diem would purge his brother, Nhu.

The President went on to say, however, that "I don't agree with those who say we should withdraw. That would be a great mistake."

Lodge continued to remain aloof from Diem despite an order from Washington to make contact with the South Vietnamese president.

By mid-September, the administration decided not to fan the flames of coup. After an NSC meeting, the White House cabled Lodge:

"We see no good opportunity for action to remove present government in immediate future; therefore, as your most recent message suggests, we must, for the present, apply such pressures as are available to secure

whatever modest improvements on the scene as may be possible. . . . Such a course, moreover, is consistent with more drastic effort as and when means become available."

At the same NSC meeting, President Kennedy decided to escalate the level of fact-finders going to Vietnam. He ordered McNamara and Taylor to make a trip.

In Saigon, McNamara and Lodge called on Diem. Although authorized by President Kennedy, McNamara did not ask for Nhu's removal. Neither did he and Lodge deliver, as they were authorized if they felt wise, a tough letter from President Kennedy to Diem. McNamara and Taylor reported that continued American pressures on Diem would only harden the regime's attitudes, the study says. But, noting the American dilemma, they reported that without such pressure "past patterns of behavior" would continue.

In the wake of the McNamara-Taylor report, the Kennedy administration, the study notes, settled on the course of applying pressure on its ally in Saigon to make reforms.

Though McNamara and Taylor had found no evidence of a coup in the making, such a move was forming. And on Oct. 2, three days after they left, the generals once again sought out American officials to determine the U.S. attitude toward the prospective overthrow of Diem.

". . . President today approved recommendations that no initiative should now be taken to give any active, covert encouragement to a coup. There should, however, be urgent covert effort with closest security under broad guidance of ambassador to identify and build contacts with possible alternative leadership as and when it appears.

"Essential that this effort be totally secure and fully deniable and separated entirely from normal political analysis and reporting and other activities of country team. We repeat that this effort is not to be aimed at active promotion of coup but only at surveillance and readiness . . ."

Harkins, belatedly learning of all the planning, cabled his superiors:

"I would suggest we not try to change horses too quickly. That we continue to take persuasive actions that will make the horses change their course and methods of action. That we win the military effort as quickly as possible, then let them make any and all changes they want . . ."

By Oct. 30, Harkins was disagreeing with Lodge to such a great extent that Lodge was reporting the fact in his cables. Lodge was reporting he did not have "the power to delay or discourage a coup."

On Oct. 60, still nervous about the possible failure of a coup, McGeorge Bundy cabled Lodge saying:

"Once a coup under responsible leadership has begun, and within these restrictions, it is in the interest of the U.S. government that it should succeed."

By not taking steps to thwart the coup, the United States had acted in complicity with the generals. But nonetheless, neither Lodge nor anyone else on the embassy staff, according to the study and the documents, had intimate knowledge of when the coup would take place.

A day after Bundy's cable to Lodge, preliminary movements by the plotters to secure their forces against counterattack were put into effect. On Nov. 1, the coup was consummated. On Nov. 2, Diem and Nhu were assassinated.

DIEM'S LAST CALL TO U.S. AMBASSADOR

(By David Kraslow)

The following story was originated and distributed from The Los Angeles Times.

The transcript of the last conversation President Ngo Dinh Diem of South Vietnam had with any American is the poignant centerpiece of the Pentagon's secret reconstruction of the coup against Diem on Nov. 1, 1963, and his assassination the following day.

At 4:30 p.m. on Nov. 1, several hours after some generals and the units they commanded launched the rebellion in Saigon, Diem telephoned U.S. Ambassador Henry Cabot Lodge from the Presidential Palace.

Diem was under siege. Coup forces and the palace guard were fighting. The rebel generals had demanded the surrender of Diem and his brother, Ngo Dinh Nhu, head of the notorious secret police, and had promised them safe conduct out of the country.

The United States was implicated in the coup at least to the extent that the Kennedy administration had pledged non-interference to the rebels.

"Apparently," the Pentagon study reports, "we had put full confidence in the coup committee's offers of safe conduct to the brothers.'

It was against this background that a desperate President Diem telephoned Lodge to determine where the United States, which had virtually guaranteed the Diem regime's survival for nine years, stood in the coup.

The following conversation ensued:

Diem: "Some units have made a rebellion and I want to know what is the attitude of the U.S.

Lodge: "I do not feel well enough informed to be able to tell you. I have heard the shooting, but I am not acquainted with all the facts. Also it is 4:30 a.m. in Washington and the U.S. government cannot possibly have a view."

Diem: "But you must have some general ideas. After all, I am a chief of state. I have tried to do my duty. I want to do now what duty and good sense require. I believe in duty above all."

Lodge: "You have certainly done your duty. As I told you only this morning, I admire your courage and your great contributions to your country. No one can take away from you the credit for all you have done. Now I am worried about your physical safety. I have a report that those in charge of the current activity offer you and your brother safe conduct out of the country if you resign. Had you heard this?"

Diem: "No [and then after a pause] You have my telephone number."

Lodge: "Yes. If I can do anything for your physical safety, please call me."

Diem: "I am trying to reestablish order."

That was the last Lodge or any other American heard from Diem, according to the Pentagon study.

During the night Diem and his brother escaped from the palace through one of the secret underground exits connected to the sewer system, the study says. They were met by a Chinese friend who took them to his home in Cholon, a section of Saigon. There the brothers spent their last night.

At 6:50 a.m. Nov. 2, after twice receiving assurances of safe departure from Vietnam in telephone conversations with the Joint General Staff headquarters of the South Vietnamese Army, Diem and Nhu surrendered unconditionally at a Catholic church.

Shortly thereafter, while enroute in the back of an armored personnel carrier to the JGS headquarters, they were murdered.

HIGH COST TO CURB AND CONTROL POLLUTION

Mr. FANNIN. Mr. President, our Nation and the world are faced with the serious problem of how to curb and control pollution.

What we need is rational discussion and reasonable proposals to preserve and improve the environment. Hysterical arguments and simplistic schemes are a disservice to the cause of environmental preservation.

One of the matters that must be considered is the cost of controlling pollution. It will not be inexpensive; the cost will be borne by the people themselves. Business and government are simply conduits which channel costs right back to the people.

An interesting article which examines some of these points appeared in the June 21, 1971, National Observer. I ask unanimous consent that this article be printed in the RECORD.

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

THE HIGH COST OF UNPOLLUTED LIVING

(By Sterling E. Soderlind)

Pollution is costly. We can't afford it. But paying the price needed to control it is going to hurt too.

There is no neat way to measure it, but pollution-control efforts already are a growing factor in aggravating general inflationary pressures.

"Ultimately, everyone will bear the brunt of the cost of control, either through higher prices or higher taxes," reports the Tax Foundation, a private, nonprofit organization.

Upgrading the environment also may mean a slower growth in real per-capita income, putting a drag on our standard of living as traditionally defined.

Noting that the economic effects of pollution control are "not altogether comforting," Andrew F. Brimmer, a Federal Reserve Board governor, says: "With much more of or net investment being channeled into pollution abatement, the rate of expansion of the American economy as a whole will probably slow down perceptibly."

A FURTHER DISADVANTAGE

American industries already hard-pressed by import competition may find that the cost of meeting pollution standards puts them at a further disadvantage with rivals in nations where standards are more lenient. Trade barriers to protect threatened American jobs could raise the price of imports.

The benefits of effective pollution control could be enormous, of course. It has been estimated that the direct costs of earnings lost because of illness and premature death could be cut by more than $2 billion annually if there were a 50 per cent reduction in air pollution levels in major urban areas. The price we pay for pollution damage to crops and property is incalculable. And how can one measure the assaults on or aesthetic sense and the annoyances of irritated eyes, closed beaches, prohibited fishing?

But economics won't go away. Air is plentiful. But *clean* air is not. Nonpolluted air, water, and earth are increasingly scarce resources. Our wants for them are seemingly unlimited. A price must be paid. In a sense, we've mortgaged our environment to pay for some of our growth. We have largely ignored the social costs associated with our misuse of resources. Now we're faced with incorporating these costs, along with those of labor and capital, into the full cost of goods and services.

"The price of goods should be made to include the cost of producing and disposing of them without environmental damage," President Nixon has said.

Industry's cleanup efforts already are costly and outlays will mount rapidly as companies strive to meet legal standards set up last January. A McGraw-Hill survey shows industry will spend $3.6 billion on pollution control this year, nearly half again as much as 1970 outlays. Electric utilities alone plan to spend $679,000,000 on pollution control this year, up 68 per cent from 1970. But that industry's total cleanup bill is estimated at a whopping $3.2 billion. The impact on consumers will show up increasingly in higher fuel bills.

Over-all, estimates for cleaning up polluted air, water, and land call for spending as much as $70 billion to $85 billion by 1975. It needs to be stressed that little of the industrial spending will increase productivity; most of the original cleanup outlays will increase the costs of producing goods and services.

MOTORISTS' MISERY

Motorists will be among the first consumers to feel sizable direct cleanup costs. Adding to their misery will be higher bills for safety features. Henry Ford II estimates that prices of his company's cars will rise, on average, $600 or more by 1975 to meet air-pollution and safety standards. Emission-control devices may cost $200 per vehicle.

The low-emission car of the future not only will be more expensive, says William D. Ruckelshaus, administrator of the Federal Environmental Protection Agency, but "it may not equal today's car in road performance."

By 1975, motorists may be adding greatly to fuel costs by paying higher prices for nonleaded gasoline. So far, many drivers have been reluctant to spend a few more pennies a gallon for antipollution gas.

The question of fairness seems sure to arise as costs mount in the pollution war. "Why should automobile owners in North Dakota be forced to purchase manufacturer-installed control devices because the smog in Los Angeles is bad?" asks W. Lee Hoskins of the Federal Reserve Bank of Philadelphia in a study on the economics of pollution.

Tax bills at all levels of government will reflect the stepped-up pollution-control efforts. Municipal water-treatment costs will run even higher than those for industry. Outlays of $33 billion to $37 billion over the period 1970–76 are estimated by the National League of Cities and the U.S. Conference of Mayors.

Taxpayers also will be out of pocket as they help make up for revenues foregone by governmental units that seek to encourage pollution control through tax preferences.

The Federal Government and seven states now allow accelerated depreciation on installation and use of certain pollution-control equipment. Credits and exemptions from tax are allowed in 34 states. Twenty-four states exempt pollution-control facilities from property taxes; 12 states exempt them from sales and use taxes.

Businessmen have made it plain that sometimes they won't be able to foot the costs necessary to meet environmental standards. The paper industry estimates that, without some form of subsidy, as many as 10 per cent of its mills will be forced to close owing to inability to finance pollution-abatement costs.

"To state this is not to engage in 'environmental blackmail' but to face reality," says Karl R. Bendetsen, chairman of U.S. Plywood-Champion Papers, Inc.

OPPORTUNITY FOR INDUSTRY

Industry, of course, also sees opportunity in pollution control. Argus Research Corp., an investment-information company, sees it as one of the biggest growth industries. But Argus warns, "although astronomical sums of money will be spent on controlling pollution during the decade, only a relatively small number of business firms will benefit substantially from these expenditures."

While stringent pollution standards may result in some unemployment when plants are unable to meet the guidelines, new jobs also will be created in the growing field of environmental protection. By 1975, officials of the Environmental Protection Agency estimate, the need for trained personnel to control pollution will be double the present supply. Needed will be 150,000 technicians, 70,000 engineers and 28,000 scientists.

The quality-of-life economics into which we are moving doesn't readily lend itself to a quantitative summing up of pluses and minuses. But now that we've thoroughly documented the extent of pollution and tired of assigning blame, we must cope with the reality of paying for the big cleanup. If we badly want those scarcities of clean air, water, and land, today's high cost of living probably will be followed by tomorrow's higher cost of less-polluted living.

ANTI-AMERICANISM IN VIETNAM

Mr. PERCY. Mr. President, an article in U.S. News & World Report of June 21, 1971, points out the special problems being encountered in American-Vietnamese relations as the U.S. troop withdrawals continue. I believe that the problems suggest the wisdom of accelerating total American withdrawal from Vietnam.

I ask unanimous consent that the article, datelined Saigon, be printed in the RECORD.

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

ANTI-AMERICANISM IN VIETNAM

Concern over anti-Americanism is growing in South Vietnam as U.S. troop withdrawals continue.

For many Americans, it is a personal worry. "I have a dream—call it a nightmare—that I am the last American left in Da Nang, and that is something nobody wants," says a U.S. official in the country's second-largest city.

Says a Seventh Air Force technician in Saigon:

"I sure don't want to be one of the last guys here. The Vietnamese won't help us at all when there's only a few of us left. We'll be completely exposed if there is any trouble."

U.S. officials explain that some Vietnamese, suspicious that the U.S. is abandoning them, are taking out their bitterness on Americans still in the country. Others are expressing resentments built up during Saigon's long years of complete dependence upon U.S. aid. A few are trying to prove—to themselves as well as to the Americans—that South Vietnam now is "independent."

Troop withdrawals, in themselves, do not trigger anti-American outbursts, say U.S. officials. Incidents of day-to-day life, especially traffic accidents, set off demonstrations. On several occasions, angry Vietnamese have blocked roads with coffins of traffic victims or seized GI's involved in highway mishaps.

Though few GI's express much liking for Vietnamese in general, many are surprised that Vietnamese often dislike and resent them, too. Says one soldier just completing his first Vietnam tour:

"Working part time in the base library, I've gotten to know some good-class Vietnamese, educated people, and I'm surprised at their bitterness about Americans. The girls tell me they don't actually hate us GI's as people, but what we represent.

"I don't understand it, but that bitter feeling is going to get worse and worse."

PRINCIPLES FOR A NATIONAL HEALTH CARE PROGRAM

Mr. KENNEDY. Mr. President, a few weeks ago, television station WCBS–TV, Channel 2 in New York City, presented a series of three editorials concerning the present condition of America's health care system and the need for reforming our system.

In the first editorial, or May 5, Mrs. Sherrye Henry presented her diagnosis of the Nation's health care system:

The symptoms: less service for higher costs. The chance for recovery: slim without immediate government action.

America spends more of its GNP for health care services than any other country, yet we rank 22d among nations in life expectancy for men, 14th among nations in infant mortality, 11th among nations in maternal mortality, and seventh among nations in life expectancy for females. We have the third highest number of physicians in the world—one for every 600 citizens—but many rural areas and small towns have no doctor.

In the second editorial, on May 6, Mrs. Henry set down several principles to be used in reforming our present health care system. First and most important, the delivery system of medical services must be reoriented. Present health insurance covers the consumer when he gets sick. Efforts should be made to help doctors keep the consumer well. Prevention and early detection of disease should be the priority of any health-care program. The present system of private insurance has been unable to keep hospital costs down. Private insurance adds another layer of cost—profit—to the total health bill. Government administration of insurance would help cut the cost of health insurance.

No health care plan should discriminate against the poor or the elderly. Middle-class families have to bear excessive costs for unexpected illnesses.

Finally, any national health-care plan must include measures to deal with the doctor shortage and the maldistribution of medical personnel. Doctors are concentrated in the cities and the suburbs. Many small towns and rural areas have no doctors at all.

In the third editorial, May 7, Mrs. Henry uses the principles she discussed in the previous editorials to examine the Health Security Act, which I have introduced in the Senate, as well as the administration's proposal. What is becoming increasingly clear, is the giant steps that must be taken to provide good health to all citizens.

I believe that Mrs. Henry's editorials supply perspective thought and provocative comments concerning the recent debate over national health insurance. I ask unanimous consent that these three editorials be printed in the RECORD.

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

THE COUNTRY IS SICK

The patient is the nation. The diagnosis: a deteriorating state of health. The symptoms: less service for higher costs. The chance for recovery: slim without immediate government action.

The state of the nation's health is—sick. That's an ironical statement, backed up by these further ironies: Though the price we pay for medical care is going up wildly, the quality of care we receive is going down. Though more of our gross national product goes for health than any major country in the world, we rank 18th among nations in life expectancy for men. Though we accomplish the most miraculous research and cures, we do little to prevent dangerous illness. And the greatest irony of all is, though it is the patient who is sick, our medical system seems more concerned with the convenience, needs and pocketbooks of those who deliver the

services—hospitals, doctors, and drug companies.

The patient, the consumer, the citizen, has less to say than anyone about the costs of the services he receives—or the quality.

If you want to know just how unhealthy the system is, listen to these facts: This country paid $67 billion for health care last year—about twice what we paid five years ago. We'll pay an estimated $72 billion this year. (slide/graph) As you can see from the chart, hospital charges and doctors' fees are climbing far faster even than the cost of living. Hospital room and board in major cities has now passed the average of $100 a day; it will soon climb to $200. We have the third highest number of physicians in the world—one for every 600 citizens—yet city ghettoes generally have one doctor for every 20 to 30,000 people; many rural areas and small towns don't even have a doctor's care.

Probably worst of all, people just don't feel good about the care they get. A Harris Poll showed that seven out of ten people think doctors don't want you to bother them.

It all adds up to this: You almost can't afford to get sick. You can't afford the cost, the chance that you won't be adequately cared for, the time and inconvenience of getting care. Yet quality health care, at a reasonable price, should not be a luxury—or available only to the rich. The only way to bring that about is to adopt, as every other major nation in the world has, a national program of health services. In later editorials we will be discussing the different forms that such services might take—and the way we believe it should be shaped.

PRINCIPLES FOR HEALTH

If costs were any indication of the quality of medical care in this country we would be the world's healthiest people. We're not. And costs are streaking up as service is generally declining. Clearly the question is not whether our system of medical care should be changed, but how.

Congress is discussing now different kinds of health programs to do that. Whatever form the final legislation takes, we think certain principles must be included:

First and most important, any program that successfully improves medical care must reform the delivery of medical services. Now, we go to a doctor after we are sick—and pay for that treatment. Real reform means families could pay doctors a yearly fee to keep them well; or patients could find all kinds of medical services under one roof with doctors in group practices. Reform means that prevention, early detection and home care must be emphasized over hospital care. Reform means that health insurance should be just that—and not sickness insurance as it is now, when you have to be really sick before you get benefits.

And that brings us to the next important principle for any national plan: The present system of buying insurance through private companies should be eliminated. The insurance industry so far has been unable—or unwilling—to do much about keeping medical costs down. In addition, they add just one more layer of cost—their profit—which could be cut out if government administered the insurance. As Senator Hubert Humphrey said, "The insurance companies can take care of themselves—it is time to help the American people for a change."

It is time that our medical services were more responsive to the needs and the pocketbooks of the patient, and less concerned about those who deliver the services.

And that brings us to a third point. No plan should penalize the poor or the elderly, and middle-income families should not continue to shoulder excessive costs for illnesses they can't afford.

And finally, any plan must deal with our shortage of doctors, especially family doctors in ghettos and rural areas that now have little service. It must help medical schools educate more doctors faster, and give them incentives to practice where the need is greatest.

These ideas sound complicated—and they are. They seem to require painstaking planning—and they do. But there is no reason that with the cooperation of the government, the medical industry and the consumer, the wealthiest nation in the world cannot also become the healthiest nation in the world.

NIXON PLAN VERSUS KENNEDY PLAN

The American people need a national health insurance program—our good health depends on it. And Congress has before it now two major proposals to set one up. One is the Nixon Administration's plan, and the other is the Health Security Act introduced by Senator Edward Kennedy, Democrat of Massachusetts.

The Nixon plan—an extension of medical care as we know it now—is based on the sale of private health insurance, with employers and employees sharing the expenses. The Kennedy plan, however, is a complete departure from our present system. Its goal is reforming the practice of medicine while it provides more care for more people. And that's why we like it better.

As we have said in other editorials, any national health plan should make medical care cheaper and more efficient for the consumer—and should emphasize the prevention of illness. Now both the Nixon and Kennedy plans claim this is essential. And both say the way to improve care is by reorganizing doctors into group practices and health care centers. But one health center can easily cost $2 million. The Nixon plan provides only $45 million in grants for the entire country—not enough. The Kennedy plan, with over a billion dollars for reorganization, would go much further.

A second principle to consider is how to administer a plan to achieve the most efficiency for the lowest cost. The Nixon plan uses private insurance companies which in the past have been most inefficient. The Kennedy plan is better here, too, because it uses the same type of government administration that has proven so successful with the Social Security Program.

A third principle is that the quality of care you get should not depend on how much money you have. The Nixon plan, unfortunately, puts even more of a burden on some of the poor and the elderly than they bear now, where the Kennedy plan reduces it. And the Nixon plan requires all other consumers to pay the first portion of medical costs, which discourages people from getting help early before serious illness strikes. The Kennedy plan does not include this type of deductible.

A fourth point says we must deal with our severe doctor shortage. Again, the Kennedy plan is ahead with more financial aid for medical schools than the Nixon one.

Well, if you are keeping score, you can see why we think the Kennedy plan is the winner. It puts a realistic figure on the cost of health care and then provides the money. But if the money the Kennedy plan spends is its chief asset, it seems also to be its chief liability. Supporters of the Kennedy plan claim the total cost will be around $68 billion the first year. The government will be required to pay half of that, or $34 billion. As the government is already spending $14 billion a year on health, that's over $20 billion in new federal spending. And inflation could push the figure even higher.

Whether we can afford to fully implement the Kennedy plan is now something for Congress and the public to decide. But the Nixon proposal is just a half-step towards adequate medical care. The Kennedy plan is the kind of giant step this nation must take for the good health of all its people.

COMMENT ON THE VIETNAM INVOLVEMENT

Mr. McGEE. Mr. President, Richard Harwood's column in this morning's edition of the Washington Post is an excellent analysis which I believe sets our involvement in Vietnam in the proper perspective.

What the article suggests is that the American people have subjected less to deception on the part of the executive branch of Government than to their own indifference, or more particularly that of many Members of Congress. Mr. Harwood, carrying his research as far back as 1964, more than adequately documents the numerous journalistic reports and editorial comments concerning our involvement in Vietnam and future prospects concerning that involvement. Included in those reports 7 years ago were the various options and contingency plans being put before the President at that time.

It might be well for those who have charged that our involvement in Vietnam has been carried off through some sinister deception practiced by four administrations to scrutinize Mr. Harwood's column very closely.

Mr. President, I ask unanimous consent that Richard Harwood's column entitled "Few 'Revelations' for Those Who Had Been Listening" be printed in the RECORD.

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

FEW "REVELATIONS" FOR THOSE WHO HAD BEEN LISTENING

(By Richard Harwood)

The continuing storm over publication of secret Pentagon papers contains lessons for all of us in the news business and for the country and the government as well.

The newspapers are learning from this episode and from the national loss of memory that has occurred since 1964 that their impact on public opinion in the United States is tragically limited. The substance and in some cases the precise details of virtually everything The Washington Post and The New York Times have printed from the Pentagon papers is ancient history. It was nearly all published while it was happening. And it was largely a futile enterprise; neither the public nor the congressional politicians were listening.

The government is learning something, too. It is learning that policy is poorly communicated and public opinion is poorly shaped by proxy. All through the early 1960s, government officials were anonymously "leaking" their fears and "options" for Vietnam through the press as a substitute for public candor and direct communication with the people. This produced considerable support for the government's zig-zag policies by most of the major newspapers, including The Post and The Times. But newspaper editorials are not necessarily the voice of the people, and newspapers, as is now evident, are inadequate instruments for public education.

What the public and politicians could learn from this experience is that if they

sit there asleep in the back row while their destinies are being debated, they are in a poor position when the slumber ends to cry foul and search for scapegoats.

The facts of this particular case are that The Post and The Times and other large news organizations published thousands of stories, editorials and essays in 1964 describing the deteriorating military and political situation in Vietnam—just as it was described in the official memoranda and cables in the Pentagon papers. The various options and contingency plans being put before the President at that time were reported repeatedly and accurately—as they are now reported in the official papers.

The growing combat role of American forces was laid out in impressive detail on front pages all over the country—the first uses of napalm against suspected enemy villages, the commitment of U.S. helicopters and crewmen to the battlefields, the reconnaissance, bombing and strafing missions of U.S. aircraft in South Vietnam and Laos, the U.S. role in training and transport of South Vietnamese raiding parties into North Vietnam, the participation of U.S. advisers and Special Forces teams in major battles, the use of U.S. troops in perimeter defense at military bases. The circumstances of the Tonkin Gulf incident, including the prior raids by South Vietnamese forces against North Vietnamese territory, were reported accurately at the time. The possibilities of U.S. air raids on North Vietnam were reported and discussed in the press repeatedly far in advance of the event. U.S. casualty lists and the new funerals at Arlington National Cemetery received increasing prominence in the news as the war revved up in 1964.

"Today," one of our correspondents wrote in February, 1964, "there are 15,500 military personnel in South Vietnam; some 275 Americans have died, about 100 of them in combat, but there has been no outcry whatsoever at home for pulling out our troops. This attitude, one hopes, is an expression of maturing American opinion, of a willingness to face up to wars that are neither 'won' nor 'lost'; to accept the fact that the Korean War was the first of what probably will be a host of 'mean, frustrating and nerve-wracking wars,' the term Secretary of State Dean Rusk applied last April to the struggle in South Vietnam."

Following the Gulf of Tonkin incidents The Times editorialized: "United States determination to assure the independence of South Vietnam, if ever doubted before, cannot be doubted now by the Communists to the north or their allies."

A few days later The Times said: "The Americans went into Vietnam in 1954 to fill the vacuum left by the French and to contain the advance of communism in that part of Southeast Asia. The motives are exemplary and every American can be proud of them, but the crucial questions are: Can it be done? . . . Is this war necessary?"

These readings of "mature" and "united" American opinion toward the war were probably wrong. What the evidence from that time suggests is that despite the pre-occupation of the newspapers and of the government with Vietnam, the public was both ill-informed and not greatly interested. The Gallup Poll in May, 1964, reported that 63 per cent of the American people had no opinion about the war or how it was going or what the United States should do. The reason for that, Gallup explained, was that this 63 per cent were paying no attention to developments in Southeast Asia; neither the newspapers nor the government had gotten their attention. Six months later, when the war fever in Washington and in the press was rising, the Council on Foreign Relations reported the results of another poll. One in four adult Americans, the council found, was not even aware that a war was going on in Southeast Asia.

What had they been told by the press? If they were readers of this newspaper they had been told in February that Secretary Rusk was saying that retaliation against North Vietnam was a future option in American policy, that "government sources" had made known plans for South Vietnamese guerrilla operations in North Vietnam, that contigency plans for a sea blockade and bombing attacks on the North had been drawn and that proposals for the commitment of U.S. troops were under study.

In March, our readers were told that "preparations already are being made for the various kinds of direct action against North Vietnam that are considered most likely to get good results," that Secretary McNamara was leaving open "the option of direct military operations against North Vietnam," that napalm was being used on Vietnam villages, that U.S. naval forces were operating small patrol boats on Vietnam rivers. Various columnists—Joseph Alsop and Roscoe Drummond, among them—were writing approvingly of the possibilities of bringing "the war to the north."

In May and June and July The Post was full of gloomy accounts of the military and political situation in South Vietnam and there was widespread speculation in the paper that an "all out war" might be in the offing. Secretary Rusk appeared at a background session of the Overseas Writers Club in Washington and spoke so belligerently that the European press said he had "delivered an ultimatum to Red China." Murrey Marder wrote in The Post that Rusk and the President were "signaling Communist China and Communist North Vietnam that they were running the risk of bringing the United States into a headon war." The war talk was so intense that Walter Lippmann chastised the administration for "making public declarations about our willingness and readiness to fight a great war in hypothetical and undefined circumstances . . . (the warning) should have been delivered privately through diplomatic channels."

On July 10, Arnold Beichman of The Herald Tribune reported the "specific details of a United States contingency plan" for bombing North Vietnam, a plan that contained a list of 400 North Vietnamese targets to be hit in retaliatory raids. Two weeks later, John Maffre of The Post, published a detailed account of guerrilla raids into North Vietnam and reported that U.S. pilots were using "Vietcong rebels as 'live targets' in the course of training Vietnamese pilots."

In August, in addition to the extensive Tonkin Gulf coverage, there were detailed stories of the use of U.S. helicopter crews on combat missions in South Vietnam, on the Laos-Cambodia border operations by U.S. Special Forces teams, and on the CIA contract with "an American aviation company to airlift guerrillas and supplies behind enemy lines in North Vietnam and Communist-held sections of Laos."

Week after week similar stories were published and were given prominent space in the newspaper. But if the opinion polls at that time are valid, as one presumes, the public was simply not interested. Nor were most members of Congress.

There was assuredly no outcry and no demand for court injunctions from the administration against the "security breaches" involved in many of these newspaper reports. On the contrary, it is obvious in retrospect that various factions in the administration were deliberately and consciously "leaking" top secret plans and recommendations in order to build support for future U.S. actions. And it seems obvious, in retrospect, that both the administration and the newspapers were deluding themselves in assuming that "leaks" were an adequate substitute for the kind of public awakening and education that sometimes arises out of vigorous public debate by public officials. What may have been happening, as Douglass Cater has suggested in another context, is that the media were having more influence in making up minds *within* the government than in influencing the public whose support the administration was seeking.

It is now seven years later. People in the news business are now indicting themselves—wrongly—for not "telling the truth." Politicians, who ought to know better, are claiming that no one told them what was going on. And the administration charges, years after the fact, that security is breached by the recounting of ancient history. It is a strange spectacle.

THOMAS J. WATSON DISCUSSES THE HEALTH CRISIS

Mr. KENNEDY. Mr. President, America's record in the area of medical research is unimpeachable. American researchers have been able to mobilize our sophisticated technology to such an extent that we have developed vaccines for polio and diphtheria. We have led the medical field in developing new techniques for open heart surgery and other organ transplants. And now, added to our record, is the great success we have achieved in the area of heart transplants. Our drug companies produce billions of pills a year to check infections and to speed the recovery of our citizens from debilitating diseases.

But delivering the advanced techniques and knowledge that American physicians have available to them is the fundamental failure of our health care system. Thousands of citizens needlessly suffer because medical attention and drugs are not available to them.

A recent speech delivered at the Mayo Clinic, Rochester, Minn., by Mr. Thomas J. Watson, Jr., chairman of the board, International Business Machines Corp., outlines some of the failures in America's health care system. Mr. Watson explores three areas in which our health care system is deficient. First, we have to increase the number of doctors, nurses, and paramedics which our schools presently train. Medical and dental schools are in urgent need of more funds to expand their enrollments and upgrade their facilities. Second, we must build better management and organization into our health care system, in order to increase our productivity and cut our inefficiency. The third part of the job is making good health care a reality for every American citizen. We are failing to guarantee for all our citizens the first right set down in the Declaration of Independence—the right to life.

Often in the past we have faced up to the need for new legislation. Workmen's compensation, child labor, the reduction of the workweek, unemployment insurance, and social security have all contributed to improving the quality of life for American citizens. Today, the pressing need is to improve the distribution of medical care and to secure the right to life denied to many citizens, because medical care is not attainable for them.

I believe that Mr. Watson's speech points out the pressing need for improving medical care in America, and I ask unanimous consent that the speech be printed in the RECORD.

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

HEALTH SERVICE: IS THE NEXT STEP SOCIALISM?

(By Thomas J. Watson, Jr.)

Let me start by asking a question that this great medical center brings to mind: How would you like to live in a country which—according to the figures available in the United Nations[1]—during the past two decades has dropped from seventh in the world to sixteenth in the prevention of infant mortality;

Has dropped in female life expectancy from sixth to eighth;

Has dropped in male life expectancy from tenth to twenty-fourth;

And which has bought itself this unenviable trend by spending more of its gross national product for medical care—$1 out of every $14—than any other country on the face of the earth?

You know the country I am talking about: Our own U.S.A., the home of the free, the home of the brave, and the home of a decrepit, inefficient, high-priced system of medical care.

Just look for a moment at what some of the figures mean. They mean that in infant mortality we have been overtaken by France, the U.K., and Japan; that in male life expectancy we have been overtaken by France, Japan, West Germany and Italy.

I know experts can disagree over our precise international standing. And I realize that medical problems in the United States, Europe and Japan are not identical.

But the evidence overwhelmingly indicates that we are falling down on the job, heading in the wrong direction, and becoming as a nation a massive medical disgrace.

Now, it may seem undiplomatic to stand here under the banner of the Mayo Clinic and make an accusation like that.

I know American medicine has scored many brilliant triumphs—the magnificent record of this institution outstanding among them, including the Mayo Brothers' pioneer work in surgery; and the discovery and use of cortisone, which brought Doctors Kendall and Hench of Mayo the Nobel Prize; the work of Dr. Jonas Salk, who made one of the most significant and heartwarming discoveries in history; of Dr. Bela Shick in eliminating diphtheria; and of many others.

We have an outstanding record of individual achievement across the whole medical spectrum.

But despite all that, when I look up at the international scoreboard, I can come to only one conclusion: We are failing to fulfill adequately for all our people the first right set down in the Declaration of Independence—the right to life.

What do we have to do to restore that right to every man, every woman, every child in America?

First, as the Carnegie Commission said last month, I believe we have to beef up our arsenal: Train more doctors, more nurses, more paramedics;

Bail our medical and dental schools out of their present deep financial troubles;

Break ground for new hospitals and clinics;

In a word, spend more money.

We Americans are great on that.

Show us a shortage—of airplanes or tanks or trucks or scientists or engineers or satellites—and we'll fix it.

And I believe we can do that kind of job just fine in medicine.

Second, we must build into the system better management, better organization, more incentives to increase productivity and cut inefficiency.

I find it shocking, for example, that comprehensive pre-paid group practice, which has repeatedly delivered better care at lower costs, encounters legal roadblocks in more than half our states.

I find it shocking to read of Americans living in backwoods towns and city slums without a doctor or a dentist or a clinic.

I find it shocking that as 30,000 highly trained medical corpsmen return to civilian life every year—many from the field of battle—they too often discover, if they want to enter medicine as a career, that they have just one job open to them—hospital orderly.

We cannot continue to live with facts like these. We have to overhaul the system.

But as we do so, we should begin simultaneously to do the third part of the job: put health care within reach of everyone in America.

And that means putting it within the reach of the poor.

I do not really believe, of course, that you can ever make the poor rich and the rich poor. But I do think we should have a floor for each American below which he cannot fall, and I believe this applies not only to his economic status, but also to his medical status.

For the plain fact is that under our present medical system, the poor suffer by far the most.

Moreover, if a person happens not to be white, the picture is even bleaker.

A non-white infant can expect to live six years less than a white infant.

The non-white infant mortality rate is the white rate multiplied by *two*.

The non-white maternal death rate is the white rate multiplied by *four*.

To me, all this adds up to a completely unacceptable situation, which I think is un-American, un-democratic and unfair.

How do we correct it, and extend coverage for medical bills to everyone?

Not just through tinkering with our present system of paying for health care.

Not just through trying to stretch the umbrella of private health insurance, which, despite its costliness, still doesn't come close to covering Americans today.

No, we need a far more thorough going reform.

And that brings us up against that old taboo—"Socialized Medicine."

I completely believe in the American free enterprise system. But when the system clearly fails to produce a much needed good, I think we should not flinch from looking to some sort of government intervention to get the job done.

Frequently in the past, we have faced up to such a requirement with new legislation: on workmen's compensation, child labor, the reduction of the work week, unemployment insurance, and social security.

I believe we face today the same kind of moment of truth in medicine.

And I believe we have only one choice before us that will work: some very new form of national health insurance.

Twenty-one years ago, we looked at national health insurance when President Truman urged it, and we rejected it.

And in 1949 we rejected it in part because of arguments like this which appeared that year in the June issue of the magazine of the American Medical Association under the title: "Wake up, America!"

"The private profession of medicine is taking rapid strides toward the solution of this problem (of medical aid for the poor). Voluntary, pre-paid hospitalization and professional insurance plans now protect 56 million Americans . . . The American people enjoy a state of good health unequaled in the world today."

As a dyed-in-the-wool free trader, free enterpriser and hater of bureaucracy, I accepted that argument in 1949, and I bet nearly everyone else in this room did, too.

But on the evidence—particularly the international evidence—I cannot accept it in 1970.

We need a dedicated and total effort to find a way to build a floor under each citizen of this country that assures much better quality and equality of medical services for all.

A variety of plans have been advanced to this end in the Congress, by representatives of government, labor, business and the medical profession, but none of these plans are moving very fast, and our problem is compounding.

We do not need national health insurance as a political football in 1972.

We need a new national health insurance law, and we need it now—in the next session of the Congress. Indeed, I hope the Administration will put this at the top of its priority list for 1971.

To get that legislation, the partisans of varying plans—in the Congress, the American Medical Association, the AFL–CIO—must get together and compromise their differences.

And to speed such compromise, I believe all of us as citizens—and I dare to include doctors—should start now to build a bonfire of persuasion—to speak out, to demand change, and not stop pushing for action until we get the legislation we need.

We can take pride in our system of universal public education, social security, and work laws.

The time has now arrived for us to have a system of universal public medicine in which we can also take pride.

A national program, of course, is not a panacea in itself. But as we look toward some sort of governmental approach to this problem, let us remember that the plans in Britain and the Scandanavian countries have proved very successful in keeping those countries in the front rank internationally. And certainly they have provided better medical service for all of the people than the systems they supplanted. To me, this is a tremendously compelling argument for keeping an open mind as we look for a solution.

Not long ago, on a visit to the California Institute of Technology, I read these words on a student poster: "Our age is characterized by the perfection of means and confusion of goals."

The goal before us in medicine is clear.

But we shall reach it only by doing what we have always done with our magnificent American system: fearlessly facing its faults, cutting them away, replacing them with something better, and moving on.

I think that same truth comes pounding through to us in the restless, pioneering lives of the Mayos—a truth which should guide and inspire us as we undertake the tough and crucial job which lies ahead: Bringing the fullness of American medical care to all the American people.

We must begin it now.

As the wealthiest, most powerful, best educated nation in the world—a people with a heroic history of pioneering and justice and compassion—I believe we can do no less.

[1] Medical statistics drawn principally from: United Nations *Statistical Yearbook, 1955*, pp. 51–5; *Demographic Yearbook, 1955*, pp. 698–707; *Demographic Yearbook, 1968*, pp. 103–11, 366–74.

CANADIAN CIGARETTE LEGISLATION

Mr. MOSS. Mr. President, I recently spoke of my views on the advertising of cigarettes and specifically stated that cigarette advertising can serve an important function in making the public aware of the health hazard of the product, and in providing tar and nicotine information of cigarettes being merchandised. Advertising can be useful; it can

be used as an educating force. At the conclusion of my statement, I included a report on the proposed ban in British Columbia on all advertising of tobacco and alcohol and commented that I did not advocate similiar action in the United States.

The very next day, the Minister of National Health and Welfare in Canada introduced into the House of Commons the Cigarette Products Act which would ban all cigarette advertising, set a limit on tar and nicotine content, and require a health warning on cigarette packages. The proposed Canadian legislation is very interesting and I have studied it closely.

The concept of a warning on the cigarette package has been accepted in the United States for several years, and we have recently strengthened this package warning to provide more meaningful information to the consumer. The limiting of tar and nicotine content is a most admirable objective for the Minister of National Health and Welfare to establish. I have advocated a similar policy and in April introduced S. 1454, which would require the Federal Trade Commission to establish limits on tar and nicotine. A limitation on the toxic emissions of cigarette smoke would be an important step forward in protecting the public health. I hope my colleagues will review S. 1454 and recognize its compatability with other measures of environmental protection; that is, limits on pollutants, tolerance for contaminents in foods, flammability standards for fabrics, quality standards for air and water. I plan to hold hearings on S. 1454 in the Consumer Subcommittee in the not too distant future.

Mr. President, I ask unanimous consent that the text of the Canadian Cigarette Products Act and an article on the bill appearing in the Wall Street Journal be printed in the RECORD.

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

[The House of Commons of Canada, Bill C–248]

AN ACT RESPECTING THE PROMOTION AND SALE OF CIGARETTES

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

1. This Act may be cited as the *Cigarette Products Act*.

INTERPRETATION

2. In this Act

(*a*) "analyst" means a person designated as an analyst pursuant to section 4;

(*b*) "cigarette" means any roll of cigarette tobacco wrapped in paper and intended for smoking and, without limiting the generality of the foregoing, includes any roll or tubular construction of or containing tobacco that is prescribed for the purposes of this Act to be a cigarette;

(*c*) "cigarette product" means cigarettes, cigarette tobacco or both;

(*d*) "cigarette tobacco" means any tobacco or tobacco substitute represented to be suitable for use in cigarettes and includes fine cut tobacco;

(*e*) "inspector" means any person designated as a cigarette product inspector pursuant to section 4;

(*f*) "Minister" means the Minister of National Health and Welfare;

(*g*) "nicotine" means nicotine-like alkaloids contained in any cigarette tobacco or in smoke from any cigarette product;

(*h*) "other constituent" means any constituent, other than nicotine or tar, that is prescribed;

(i) "package" means any pack, packet, box, carton or other container in which a cigarette product is offered for sale but does not include any transparent wrapping or wrapper on any such container that is ordinarily removed when the container is opened;

(*j*) "prescribed" means prescribed by the regulations;

(*k*) "sell" include offer for sale, expose for sale, have in possession for sale and distribute; and

(*l*) "tar" means the particular matter contained in smoke from any cigarette product but does not include nicotine or, if so prescribed, water.

PROHIBITIONS

3. (1) No person shall, directly or indirectly, by any means whatever promote the sale of any cigarette product except that

(*a*) any person who sells any cigarette product in the ordinary course of business may,

(*i*) for the purpose of selling the cigarette product, expose and identify it inside his place of business,

(ii) where he sells the cigarette product by means of an automatic vending machine, display thereon such information as is necessary to identify the cigarette product sold by means of such machine, and

(iii) with respect to his business premises, business vehicle or other property, publish his name thereon to the extent necessary to identify his ownership, tenancy or leasing thereof or to comply with any law;

(*b*) a manufacturer of cigarette products may distribute or make available free of charge or on a subsidized basis his cigarette products to his employees for their personal use; and

(*c*) a manufacturer or wholesale distributor of cigarette products may make representations to wholesale distributors or retailers of cigarette products for the purpose of selling his products to such persons.

(2) No person shall import or manufacture for sale

(*a*) a cigarette product the smoke from which contains an amount of nicotine, tar or other constituent exceeding the maximum amount prescribed; or

(*b*) cigarette tobacco that contains an amount of nicotine or other constituent exceeding the maximum amount prescribed.

(3) No person shall sell

(*a*) a cigarette product the smoke from which contains an amount of nicotine, tar or other constituent exceeding the maximum amount prescribed;

(*b*) cigarette tobacco that contains an amount of nicotine or other constituent exceeding the maximum amount prescribed;

(*c*) a cigarette product unless there appears on the package thereof, clearly and prominently displayed, the words of warning set out in the Schedule, or such other words as may be prescribed, and

(i) in the case of cigarettes, a statement in English and in French of the amount of nicotine, tar and other constituent contained in the smoke from any such cigarette, or

(ii) in the case of cigarette tobacco, a statement in English and in French of the amount of nicotine and other constituent contained in such tobacco or the amount of nicotine, tar and other constituent in the smoke from such tobacco;

(*d*) any cigarette unless it has a circumferential line marked thereon in the form and manner prescribed; or

(*e*) cigarettes by means of an automatic vending machine unless there appears on such machine the words of warning required under paragraph (*c*) and a statement in English and in French, in respect of such cigarettes, required by subparagraph (i) of that paragraph.

INSPECTIONS AND ANALYSTS

4. (1) The Minister may designate as a cigarette product inspector for the purposes of this Act any person who, in his opinion, is qualified to be so designated.

(2) An inspector shall be furnished with a certificate of his designation as an inspector and on entering any place pursuant to subsection (1) of section 5 shall, if so required, produce the certificate to the person in charge thereof.

(3) The Minister may designate as an analyst for the purposes of this Act any person who, in his opinion, is qualified to be so designated.

INSPECTION

5. (1) An inspector may at any reasonable time enter any place in which he reasonably believes any cigarette product is sold or is stored before sale and may, where he has reason to believe it is necessary to do so for any purpose relating to the enforcement of this Act,

(*a*) examine any cigarette product found therein;

(*b*) open and examine any package found therein that he has reason to believe contains any cigarette product; and

(*c*) examine any books, reports, records, shipping bills and bills of lading or other documents or papers that on reasonable grounds he believes contain any information relevant to the enforcement of this Act and make copies thereof or extracts therefrom.

(2) The owner or person in charge of a place entered by an inspector pursuant to subsection (1) and every person employed therein shall give the inspector such assistance and furnish him with such information as the inspector may, for the purpose of exercising the powers referred to in subsection (1), reasonably require him to give or furnish.

6. (1) No person shall obstruct an inspector in the exercise of his powers or the carrying out of his duties under this Act.

(2) No person shall knowingly make any false or misleading statements, either verbally or in writing, to an inspector engaged in the exercise of his powers or the carrying out of his duties under this Act.

SEIZURE AND DETENTION

7. (1) Whenever an inspector believes on reasonable grounds that any provision of this Act or the regulations has been contravened, he may seize and detain any cigarette product or any labelling, packaging or advertising material by means of or in relation to which he reasonably believes the contravention occurred.

(2) Except to the extent that the cigarette product or other thing, or a sample thereof, is required as evidence, an inspector shall not seize any cigarette product or other thing pursuant to subsection (1) where in his opinion the seizure of the cigarette product or other thing is not necessary in the public interest.

(3) Where an inspector has seized and detained any cigarette product or other thing pursuant to subsection (1), he shall, as soon as practicable, advise the person in whose possession the cigarette product or other thing was at the time of seizure of the provision of this Act or the regulations that he believes has been contravened.

(4) Any cigarette product or other thing seized pursuant to subsection (1) shall not be detained

(a) after the provisions of this Act or any regulations that are applicable to the cigarette product or other thing have, in the opinion of an inspector, been complied with;

(b) except to the extent that the cigarette product or other thing, or a sample thereof, is required as evidence, after an inspector or the Minister, upon application made to him by the owner of the cigarette product or other thing or by the person in

whose possession the cigarette product or other thing was at the time of seizure, is satisfied that it is not necessary in the public interest to continue to detain such cigarette product or other thing; or

(c) after the expiration of sixty days from the day of seizure, unless before that time

(i) the cigarette product or other thing has been forfeited pursuant to section 9,

(ii) proceedings in which the cigarette product or other thing seized may be required have been instituted, in which event the cigarette product or other thing may be detained until the proceedings are finally concluded, or

(iii) notice of an application for an order extending the time during which the cigarette product or other thing may be detained has been served in accordance with section 8.

(5) A cigarette product or other thing seized by an inspector pursuant to subsection (1) may, at the option of an inspector, be kept or stored in the building or place where it was seized or may be removed to any other proper place by or at the direction of an inspector.

(6) Unless authorized by an inspector, no person shall remove, alter or interfere in any way with any cigarette product or other thing seized and detained by an inspector or pursuant to subsection (1) but an inspector shall, at the request of the person from whom the cigarette product or other thing was seized, allow that person or any person authorized by that person to examine the cigarette product or other thing so seized and, where practicable, furnish a sample thereof to such person.

8. (1) Where proceedings in which any cigarette product or other thing seized or detained pursuant to subsection (1) of section 7 may be required have not been instituted, the Minister may, before the expiration of sixty days from the day of seizure and upon the serving of prior notice in accordance with subsection (2) on the owner of the cigarette product or other thing or on the person in whose possession the cigarette product or other thing was at the time of seizure, apply to a magistrate within whose territorial jurisdiction the seizure was made for an order extending the time during which the cigarette product or other thing may be detained.

(2) The notice referred to in subsection (1) shall be served by personal service at least five clear days prior to the day on which the application is to be made to the magistrate or by registered mail at least seven clear days prior to that day and shall specify

(a) the place where and the time when the application is to be heard, which time shall be not later than ten days after service of the notice;

(b) the cigarette product or other thing in respect of which the application is to be made; and

(c) the evidence upon which the Minister intends to rely to show why the time during which the cigarette product or other thing may be detained should be extended.

(3) Where, upon the hearing of an application made under subsection (1), the magistrate is satisfied that the cigarette product or other thing seized should continue to be detained, he shall order that the cigarette product or other thing be detained for such additional period of time as he deems proper and that upon the expiration of such period of time the cigarette product or other thing be restored to the person from whom it was seized or to any other person entitled to possession thereof unless before the expiration of such period of time subparagraph (i) or (ii) of paragraph (c) of subsection (4) of section 7 applies.

(4) Where, upon the hearing of an application made under subsection (1), the magistrate is not satisfied that the cigarette product or other thing seized should continue to be detained, he shall order that the cigarette product or other thing be restored to the person from whom it was seized or to any other person entitled to possession thereof upon the expiration of sixty days from the day of seizure unless,

(a) before the expiration of such period of time, subparagraph (i) or (ii) of paragraph (c) of subsection (4) of section 7 applies; or

(b) at the time of the hearing such period of time has then expired, in which event he shall order the restoration thereof forthwith to the person from whom it was seized or to any other person entitled to possession thereof.

FORFEITURE

9. (1) Where an inspector has seized any cigarette product or other thing pursuant to subsection (1) of section 7 and the owner thereof or the person in lawful possession thereof at the time of seizure consents in writing to the forfeiture of the cigarette product or other thing, such cigarette product or other thing is thereupon forfeited to Her Majesty.

(2) Where a person is convicted of an offence under this Act and any cigarette product or other thing seized pursuant to subsection (1) of section 7 by means of or in relation to which the offence was committed is then being detained, such cigarette product or other thing

(a) is, upon such conviction, in addition to any punishment imposed for the offence, forfeited to Her Majesty if such forfeiture is directed by the court; or

(b) shall, upon the expiration of the time for taking an appeal from the conviction or upon the final conclusion of the proceedings, as the case may be, be restored to the person from whom it was seized or to any other person entitled to possession thereof upon such conditions, if any, relating to sale as may be imposed by order of the court and as, in the opinion of the court, are necessary to avoid the commission of any further offence under this Act.

REGULATIONS

10. (1) The Governor in Council may make regulations

(a) fixing, for the purpose of subsections (2) and (3) of section 3,

(i) the maximum amount of nicotine, tar or other constituent that may be contained in the smoke from any cigarette product, and

(ii) the maximum amount of nicotine or other constituent that may be contained in cigarette tobacco;

(b) prescribing the manner in which

(i) the amount of nicotine, tar or other constituent contained in the smoke from any cigarette product, or

(ii) the amount of nicotine or other constituent contained in cigarette tobacco,

shall be determined;

(c) prescribing the form and manner in which the words of warning and the statements required by paragraph (c) of subsection (3) of section 3 shall appear on any package or on any automatic vending machine, as the case may be; and

(d) prescribing any matter or thing that by this Act is to be prescribed.

(2) A copy of each regulation or an amendment to a regulation that the Governor in Council proposes to make under subsection (1) shall be published in the *Canada Gazette* and a reasonable opportunity shall be afforded to manufacturers, distributors and other interested persons to make representations to the Minister with respect thereto.

11. Nothing shall appear on or in any package of a cigarette product or any wrapping or wrapper thereof or on any automatic vending machine to suggest, expressly or by implication, that the smoking of a cigarette product does not constitute a health hazard because the cigarette product complies with the requirements of this Act or otherwise.

OFFENCE AND PUNISHMENT

12. (1) Every person who contravenes subsection (1) or (2) of section 3 is guilty of an offence and liable

(a) on summary conviction, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or to both; or

(b) on conviction upon indictment, to a fine not exceding one hundred thousand dollars or to imprisonment for a term not exceeding five years or to both.

(2) Every person who contravenes subsection (3) of section 3 is guilty of an offence and liable

(a) on consummary conviction, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both; or

(b) on conviction upon indictment, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or to both.

(3) A prosecution under paragraph (a) of subsection (1) may be instituted at any time within twelve months after the time when the subject matter of the prosecution arose.

(4) Every person who contravenes any provision of this Act, other than section 3, is guilty of an offense and liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both.

(5) Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.

13. (1) No person shall be convicted of an offence of selling any cigarette product in contravention of this Act or the regulations if he establishes that

(a) he purchased the cigarette product from another person; and

(b) he could not with reasonable diligence have ascertained that the sale of the cigarette product would have been in contravention of this Act or the regulations.

(2) No person shall be convicted of an offence of manufacturing a cigarette product for sale if

(a) the package thereof is marked in distinct overprinting with the words "For export" and "Exportation"; and

(b) he establishes that the cigarette product is for export and that such product and its package do not contravene any known requirement of the law of the country to which it is or is about to be exported.

(3) No person shall be convicted of an offence of selling a cigarette product if

(a) the cigarette product is sold for export; and

(b) he establishes that the cigarette product and its package do not contravene any known requirement of the law of the country to which it is or is about to be exported.

(4) Subsection (1) does not apply in any prosecution unless the accused, at least seven days before the day fixed for his trial, has given to the prosecutor notice in writing that he intends to invoke the protection of subsection (1) and has disclosed to the prosecutor the name and address of the person from whom he purchased the cigarette product and the date of purchase.

PROSECUTIONS

14. (1) No exception, exemption, excuse or qualification prescribed by law is required to be set out or negatived, as the case may be, in an information or indictment for an offence under section 12 of this Act or under

48-059 O - 72 - pt. 17 - 13

section 406, 407 or 408 of the *Criminal Code* in respect of an offence under section 12.

(2) In any prosecution for an offence mentioned in subsection (1) the burden of proving that an exception, exemption, excuse or qualification prescribed by law operates in favour of the accused is on the accused, and the prosecutor is not required, except by way of rebuttal, to prove that the exception, exemption, excuse or qualification does not operate in favour of the accused, whether or not it is set out in the information or indictment.

15. (1) Subject to this section, a certificate of an analyst stating that he has analysed any cigarette tobacco or the smoke from any cigarette product in accordance with a manner prescribed and stating the result of his analysis is admissible in evidence in any prosecution for an offence under section 12 or under section 406, 407 or 408 of the *Criminal Code* in respect of an offence under section 12 and in the absence of any evidence to the contrary is proof of the statements contained in the certificate without proof of the signature or the official character of the person appearing to have signed the certificate.

(2) The party against whom a certificate of an analyst is produced pursuant to subsection (1) may, with leave of the court, require the attendance of the analyst for the purposes of cross-examination.

(3) No certificate shall be received in evidence pursuant to subsection (1) unless the party intending to produce it has given to the party against whom it is intended to be produced reasonable notice of such intention together with a copy of the certificate.

16. Where a copy of any document or paper is made pursuant to paragraph (c) of subsection (1) of section 5 and is certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to that paragraph such copy is admissible in evidence and has the same probative force as the original document or paper would have if it had been proven in the ordinary way.

17. A complaint or information in respect of an offence under this Act may be heard, tried or determined by a court if the accused is resident or carrying on business within the territorial jurisdicton of that court although the matter of the complaint or information did not arise in that territorial jurisdiction.

REVISED STATUTES OF CANADA, 1970

18. A reference in this Act to any Act that is repealed and replaced by the Revised Statutes of Canada, 1970, or to any provision of such an Act, shall, after the coming into force of those Revised Statutes, be read as regards any transaction, matter or thing subsequent there to as a reference to the corresponding Act or provision included in those Revised Statutes.

COMING INTO FORCE

19. (1) This Act shall come into force on the 1st day of January, 1972.

(2) Notwithstanding subsection (1), subparagraph (ii) of paragraph (c) of subsection (3) of section 3 shall come into force on a day to be fixed by proclamation.

CANADA PROPOSES TOTAL CIGARETTE-ADS BAN, TAR-NICOTINE LIMITS, INSPECTION, WARNINGS

OTTAWA.—The Canadian government introduced legislation calling for a complete ban on all forms of cigaret advertising beginning Jan. 1.

Also under the bill, the government would be empowered to set standards on tar and nicotine content and to organize an inspection system to ensure that the standards are met.

The Canadian Tobacco Manufacturers Council said it was "overwhelmed" by the bill's scope. "We knew the bill was coming," said Paul Pare, council president, "but we certainly didn't think it would go that far."

John Munro, health and welfare minister, and a heavy smoker himself, said the government is acting because "most cases of lung cancer are attributable to smoking." He said 4,700 persons died in Canada of lung cancer in 1969, and 3,500 of these deaths were related directly to smoking.

Mr. Munro, incidentally, said that until recently he had smoked about 75 cigarets a day, but has cut down to less than 40.

The bill would have cigaret packages list the tar and nicotine content of the cigarets and carry the admonition, "Warning: Danger to health increases with amount smoked, avoid inhaling." The bill also would require cigarets to be marked with a "circumferential ring" to warn that cigarets smoked further than this mark emit smoke containing higher concentrations of tar and nicotine.

The maximum penalty for violating the bill's provisions would be a $100,000 fine or five years in jail.

Mr. Munro said the bill would prohibit advertising cigarets "on television, radio, in print or by means of premiums or coupons." The bill itself would make it unlawful to advertise in any way, meaning that billboards and signs would have to come down. The proposed legislation deals exclusively with cigarets, and Mr. Munro said the government doesn't plan any action against advertising pipe tobacco or cigars.

The government doesn't plan to try to stop cigaret advertising in foreign newspapers and magazines distributed in Canada, Mr. Munro said. But Mr. Pare said the industry wouldn't use this loophole because companies wouldn't be able to list the advertising costs as a tax write-off expenditure.

Both Mr. Munro and Mr. Pare agreed that banning cigaret advertising won't necessarily cut down on cigaret smoking in Canada, but the health and welfare minister contended the ban would "end the inducement to smoke."

The tobacco industry is especially concerned about the bill's provisions to let the Canadian government set tar and nicotine standards, Mr. Pare said. If the standard is too low, he contended, "the tobacco industry could be crippled" because low-level cigarets are "tasteless."

Mr. Pare, who also is president of Imperial Tobacco Products Co., a division of Imasco Ltd., said the tobacco industry spends $25 million a year on cigaret advertising. The ban, he asserted, would "result in hardships to many people in the marketing field in Canada." He also charged that the bill effectively would prevent the introduction of new brands and would "seriously restrict competition among manufacturers."

The advertising-ban bill is considered certain to pass in Parliament. Spokesmen for the political parties praised the bill and the governing Liberal Party holds a majority in the House of Commons and the Senate.

The British Columbia legislature two months ago passed a similar hard-line bill banning cigaret advertising in that province.

REPORT OF THE NATIONAL PANEL OF CONSULTANTS OF THE CONQUEST OF CANCER

Mr. KENNEDY. Mr. President, recently Mr. Benno C. Schmidt, Chairman of the National Panel of Consultants on the Conquest of Cancer, delivered a major address to the American Cancer Society, in which he discussed the findings and recommendations of his panel. The occasion of Mr. Schmidt's speech was a dinner in New York honoring Mrs. Mary Lasker for her enormous contributions to this field and to the entire field of medical research.

In his speech, Mr. Schmidt provided an excellent progress report on our efforts to conquer cancer. As members of the Senate are aware, Mr. Schmidt played a leading role in the development of S. 1828, the Conquest of Cancer Act, which was approved last week by the Senate Committee on Labor and Public Welfare, and which will soon reach the Senate floor for for debate. I ask unanimous consent that Mr. Schmidt's speech may be printed in the RECORD.

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

CONQUEST OF CANCER

Mr. Rockefeller, Mrs. Lasker, President and Mrs. Johnson, distinguished guests.

I wish I could take a portion of the time allotted me this evening to talk about all the wonderful things that our lovely guest of honor, Mary Lasker, has done to enhance and enrich medical research, and particularly cancer research, in this country. However, that task has been reserved for a very distinguished guest and, as a fellow Texan, I know better than to trespass on his domain. Therefore, I will proceed with the task which Mr. Rockefeller has assigned to me—to give you a brief report on the findings and recommendations of the National Panel of Consultants on the Conquest of Cancer, and to give you a progress report on where we stand today.

To review briefly the background of our Panel, on April 27, 1970, the United States Senate passed Senate Resolution 376 authorizing the Senate Committee on Labor and Public Welfare to appoint a panel to make a comprehensive report on cancer and to develop recommendations for a program for making the conquest of cancer a major national goal. In June of 1970, the Senate joined the House of Representatives in passing Concurrent Resolution 675 expressing the unanimous sense of the Congress that "the conquest of cancer should be made a national crusade, and that the Congress should appropriate the necessary funds so that citizens of this land and all other lands might be delivered from the greatest medical scourge in history."

At the first meeting of our Panel on June 29, 1970, we were charged by the Senate Committee on Labor and Public Welfare with reporting as promptly as possible on:

(1) Where we stand today in the field of cancer;

(2) What are the areas of greatest promise for significant advance; and

(3) What steps should be taken to make the conquest of cancer a major national goal.

I believe that the Report which we presented to the Senate Committee on December 4, 1970, answers those questions. Part I of that Report sets forth in twelve brief paragraphs a summary of the cancer problem, the areas of special promise which offer unusual opportunities for intensified effort, and the recommendations of our Panel. Part II of the Report sets forth the scientific and medical background in more detail.

You will perhaps be surprised to learn that, of the $250,000 appropriated by the Senate for the administrative costs of our study, only $75,000 was spent. This was possible because of the generous contribution of time and effort by many persons who would not have been available at all on a reimbursement basis, but who, because of their dedication to the goals of our study, gave time and talent without reservation. These include not only members of the Panel, but several hundred members of the scientific community whose lives are devoted in a large measure to work related to the conquest of cancer.

The largest burden of the work of our Committee was borne by the scientific and professional members, and I have never

known any group to work with greater unselfishness and dedication. Several members of the Committee literally worked full time on this task over a period of five months. The lay members of the Committee also contributed very substantially to our effort, and no chairman was ever blessed with a more dedicated Committee or with better cooperation than that which I received as chairman of this distinguished Panel. We also received enormous help from the entire scientific community, including those at the National Cancer Institute, and many other great institutions in this country which are devoted in whole or in part to cancer research.

Our deliberations were extensive, wide-ranging, and I believe thorough, and at their conclusion the Committee was unanimously of the view that the conquest of cancer is a realistic goal if an effective national program along the lines recommended in the Report is promptly initiated and relentlessly pursued.

Immediately following the presentation of our Report to the Senate Committee on December 4, 1970, a bill was introduced in both the Senate and the House which is based upon the recommendations of our Report. This bill, the "Conquest of Cancer Act," is now pending in the Congress.

In January of 1971, the President, in his State of the Union address, announced his support of the objectives of our Report in the following words:

"I will also ask (the President said) for an appropriation of an extra $100 million to launch an intensive campaign to find a cure for cancer, and I will ask later for whatever additional funds can effectively be used. The time has come in America when the same kind of concentrated effort that split the atom and took man to the moon should be turned toward conquesting this dread disease. Let us make a total national commitment to achieve this goal."

What accounts for this sudden accelerated interest in cancer at this time? After all the years that cancer has been with us, what has led the Congress in the two Resolutions referred to, and the President in his State of the Union address, to give a new and higher priority to the cancer program? I believe that the answer to this question is twofold. First, the action of the Congress and the President reflects the desires of the American people, and secondly, the time is right from a scientific standpoint for a program of this kind as it has never been in the past.

First, so far as the American people are concerned, there is no question that cancer is their number one health concern. A poll conducted in 1966 showed that 62% of the public feared cancer more than any other disease. Yet, despite this concern, of the 200 million Americans alive today, 50 million will develop cancer and 34 million will die of cancer if better methods of prevention and treatment are not discovered. About one-half of these deaths will occur before the age of 65, and cancer causes more deaths among children and young people than any other disease. Cancer is often an ugly disease, striking as harshly at human dignity as at human life, and more often than not it represents financial catastrophe for the family in which it strikes.

Yet, the amount spent on cancer research has been grossly inadequate. As pointed out in our Report, for every man, woman and child in the United States, the Federal government spent in 1969; $410 on national defense; $125 on the war in Vietnam; $19 on the space program; $19 on foreign aid; and only $0.89 on cancer research. Cancer deaths last year were eight times the number of lives lost in six years in Vietnam, five and one-half times the number killed in automobile accidents, and greater than the number of Americans killed in battle in all four years of World War II. Given the seriousness of the cancer problem to the health and morale of our society, this allocation of national priorities is no longer acceptable to the American people. In addition to the cost of cancer in human terms, the economic costs are staggering. Fifteen billion dollars per year is a conservative estimate of the cost of cancer to this nation. It is no wonder then that the American people support the Congress and the President in their determination to give a higher priority to finding solutions to the cancer problem.

Turning now to the second point, those most familiar with the cancer problem, the scientists and professional men who have spent their lives working in this field, feel that the time is especially right today for an intensified and accelerated effort. I would like now to call on Dr. James Holland, immediate past-President, American Association for Cancer Research, and one of the distinguished cancer scientists on our Panel, to summarize for you very briefly some of the reasons for the feeling that recent advances in the knowledge of cancer have opened up far more promising areas for intensive investigation than have ever heretofore existed. Following Dr. Holland's presentation, I will resume to discuss with you briefly the Panel's recommendations. Dr. Holland.

Dr. HOLLAND. Mr. Chairman.

The goal of cancer research is to understand the cancer cell so thoroughly that prevention or cure is always possible. We do not enjoy that status today. In the past two decades, however, we have learned more of critical value than in all the years before.

Fundamental advances in molecular biology have elucidated the structure of DNA as a double helix wherein is coded all the information for the function and reproduction of each species. Messages from this library of genetic information are translated from the nucleus to other portions of the cell. There the instructions are precisely followed to synthesize various types of compounds which are the structural substance and the working molecules. They modulate the flow of chemical events of every day life, and upon the proper signals prepare the cell to divide. All these events take place in an orderly fashion. I apologize that I have compressed in five sentences the brilliant achievements of 5000 investigators.

The cancer cell is disordered. It is less responsive than the normal cell to the ordinary events within and between cells which tell it not to divide. An appreciation of all these facts has permitted the design of experiments to seek where the abnormalities of cancer lie. Studies of DNA, of the intricate process of readout of the messages from DNA, of the physical transport of the messages within the cell, and of the controls that specify which messages shall be read and which shall be repressed are the object of much cancer research. Which of these processes is abnormal in a cancer cell is not known for certain, but the areas of ignorance have been identified, and to some extent circumscribed, and the search is intensive.

Certain chemical and physical factors in our environment are known to be able to cause cancer in experimental animals and in man, and the preponderance of evidence points to environmental factors in most cases. An expanded program is needed to discover other chemicals, perhaps unsuspected, that constitute clear and present danger because of their indiscriminate use. Furthermore, research reports are appearing on the intracellular alterations that cancer-producing chemicals themselves must undergo before they cause the disorders of regulation that lead to cancerous behavior. It already has been possible to interrupt the activation or effectiveness of certain cancer-producing chemicals, thereby decreasing their dangerous potential.

Viruses have been proved responsible for one or more kinds of cancer in each of the following species: frogs, chickens, mice, rats, guinea pigs, rabbits, cats and dogs. Human cells in culture have been infected with viruses known to cause cancers in mice and cats. Viruses have been isolated from certain human cancers which have extraordinary similarity structurally and chemically to viruses known to cause homologous cancers in laboratory animals. It does not tax the imagination to anticipate that definite proof some human cancers are due to viruses will be forthcoming, and probably soon. Brilliant observations in the past year have unravelled most of the mystery of how viruses which cause leukemia in chickens and in mice multiply to form more virus particles, and some of the mystery of how they enter the cellular DNA to influence the control of cellular behavior. Cancer research is probing close to the core.

One means of detecting viruses depends on demonstration of virus-derived and virus-specific chemical substances in or on the infected cell. Unique new substances have been demonstrated on some human tumors which suggests that virus infection exists in these cells. This is an area which deserves major expansion. Proof of viral etiology, yea or nay, is the utmost importance because of the opportunities which might exist for prevention of infection, or prevention of tumor formation. New drugs could also be developed to cope with the viral infection once it had occurred, in addition to the effects that drugs have on the cancer cells themselves.

Immune responses, the natural defenses of the body against disease, have been shown recently to be active against several human cancers. Breast cancer, skin cancer, bone cancer, malignant melanoma, neuroblastoma and acute leukemia are but some of the cancers where immune responses have been recognized. A number of studies are now beginning in efforts to exploit this response, using artificial and natural stimulants of the body's defenses and even tumor cell preparations themselves. Some have already been successful.

Once a cancer has developed, earlier diagnosis means earlier treatment. It is a long sought objective to diagnose cancers before they spread, which implies techniques that do not depend on the cancer's becoming large enough to cause symptoms. Highly sensitive and specific blood tests have been discovered in recent years that allow the detection of certain cancers because of their chemical fingerprints. Such research needs much emphasis.

Some of the most exciting advances in cancer research have been made in chemotherapy. To the curative action of surgery and radiotherapy, we now have added the curative activity of drugs for several human cancers, in addition to useful therapy and patient benefit for many other types of cancer. I now recognize 32 different drugs which have useful, reproducible anti-cancer activity, and the list is expanding. The continuously increasing survival of children with acute leukemia, and the presumptive cure of some of these children, is particularly gratifying. It has been possible to discover the mechanism of action of many of the anti-cancer drugs, and thus to design other new drugs to hit at the same target. Several combinations of drugs have proved more active than the single components alone, providing for multiplicity of attack and wide variety of therapeutic strategies. Some of these strategies include the coordinated use of chemotherapy and surgery, or of chemotherapy and radiotherapy, and much future advance is to be expected in this arena. Chemotherapy and immunotherapy is a particularly challenging area.

Progress in radiation research has accelerated, with more effective therapy possible from higher energy sources and better techniques of delivery. Some cancers have now been cured with skilled radiotherapy which

were once thought to be restricted to palliation and pain relief as the limit of radiation effect. Better insight into the mechanisms by which radiation causes its effect, and the influence of several physical and chemical factors on it hold promise of even better results to come.

It has proved possible to gain much clinical and scientific information on the effects of treatment from cooperative studies conducted by large groups of investigators, thus shortening the time to realize meaningful application of chemotherapeutic principles and the time to establish the value of new cancer drugs. Such therapeutic investigations could effectively be expanded forthwith.

In summary, I believe there has been a broad and powerful wave of advances in cancer research—in cell biology, in chemical carcinogenesis, in virology and immunology, in diagnosis, in chemotherapy and radiotherapy, and in combination treatments. In some places the tide has raced ahead, providing enough knowledge for prevention or cure. When applied in those places, prevention or cure has resulted. The value of such observations is clear: we know it can be done, because it has been done. Cancer research is truly at the crossroads and it is with profound satisfaction that I believe we as a people are at long last moving in the right direction toward the conquest of cancer.

Thank you, Dr. Holland.

In order to make maximum progress toward the conquest of cancer, the Panel concluded that three things are necessary which do not exist today.

First, there must be effective administration wtih clearly defined authority and responsibility. *Second*, there must be a comprehensive national plan for a coherent and systematic attack on the vastly complex problems of cancer. *Third*, the necessary financial resources must be provided.

In order to provide effective administration with clearly defined authority and responsibility, the Panel recommended the creation of a National Cancer Authority as an independent agency in the Executive Department with an administrator, appointed by the President with the advice and consent of the Senate, who would report directly to the President and present his budgets and programs directly to the Congress. We also recommended the creation of a National Cancer Advisory Board made up of scientific and lay members to represent the scientific community and the public in the planning and the execution of the cancer program. Members of this Board would also be appointed by the President with the advice and consent of the Senate.

Effective administration in this formidable and complex scientific field requires a simplification of organizational arrangements and a drastic reduction in the number of people involved in administrative decisions. This type of straight-line organizational efficiency does not exist today.

Obviously, from many standpoints it can be argued that any cancer program should be in the Department of Health, Education and Welfare and indeed that it should be in the National Institutes of Health. However, the Panel, after careful consideration of this issue, had real doubt whether the kind of organization and emphasis that is required for this program could in fact be achieved within the operating organization of the National Institutes of Health or the Department of Health, Education and Welfare.

In the past, when the Federal government has desired to give top priority to a major scientific effort of the magnitude of that involved in the conquest of cancer, it has on occasion, with considerable success, given the responsibility therefor to an independent agency. Such an agency provides a degree of independence in management, planning, budget presentation, and assessment of progress which is difficult if not impossible to achieve in a large government department. Accordingly, if the Congress and the Administration are truly committed to making the conquest of cancer a major national goal, it was the view of the Panel that a National Cancer Authority should be established whose mission is defined by statute to be the conquest of cancer at the earliest possible time.

We believe that it is important to get this program out from under the six tiers of bureaucracy that overlay it today; that we must eliminate the delays and duplication in decision making, and the competition for funds; and have an Administrator responsible for cancer who is not subordinate to those responsible for eleven other health institutes and multiple health programs. Results should be more important to the Administration, the Congress and to the American people than preserving the apparent organizational symmetry which would seem to be preserved by maintaining the status quo in cancer research.

This proposal would not terminate, interrupt or move the activities of the National Cancer Institute (which would become the nucleus of the Cancer Authority); it would not fragment or isolate the cancer effort from other biomedical sciences; it would not minimize basic research or diminish the emphasis on grants; it would not in any way threaten the basic scientists or the support of medical schools; but it would provide clearly defined authority and responsibility; it would provide management, planning and budgetary independence; it would provide participation in the planning effort by the scientists who will be primarily involved in the execution of the effort; it would provide the mechanics for peer review without the inefficiencies and delays that exist today; and it would assure that the cancer effort retained whatever priority the Congress assigned to it and that the funds provided for the cancer effort were not used for the support of other programs, however meritorious, such as unrelated biomedical research in other fields and medical education.

I would like to emphasize that our Panel is strongly of the view that the cancer effort should not be funded at the expense of other biomedical research or medical education. But the way to avoid this is not to divert funds appropriated to cancer to these purposes, but to use the cancer funds for cancer and look squarely at the funding needs of these other areas.

When I speak of using cancer funds for the cancer effort, let me be clear that I am not talking about a limited programmatic or systems approach. Using cancer funds for the cancer effort would include greatly increased segments of grant-supported basic biomedical research which are relevant or even possibly relevant to cancer. But a qualified advisory board which includes eminent basic scientists can draw that line wisely and not narrowly, and it is not essential to the protection of basic science or medical education that the boundaries of the cancer effort be defined by those whose primary interest is in areas other than cancer.

There is one further point in this connection that I would like to make. You will hear the criticism made that the analogy to the splitting of the atom or the space program (where indopendent agencies were given the job) is not valid because we do not have the basic scientific knowledge in cancer that we had in those fields, and therefore this program is not a program of engineering implementation of existing knowledge as those programs were. I assure you that the Panel was thoroughly aware of this distinction in making its recommendations, and we took it into full account. The valid analogy is not the scientific analogy but the organizational analogy. The cancer program, in order to succeed, needs the same independence in *management, planning, budget presentation, and progress assessment that those programs needed*, and in those respects the independent authority analogy is a valid one.

The most persistent attack on our organizational recommendations comes from those who argue that an independent authority for cancer will fragment biomedical science and significantly weaken N.I.H. However, the overwhelming majority of the members of our Panel, many of whom have worked closely with N.I.H. for years, are of the view that no weakening of the N.I.H. need result from making cancer independent. Quality need not be a function of size (in fact, the opposite is more often true), and the Congress and the Executive have the power to keep the very important remaining role of N.I.H. as strong as they want it to be.

As for the dangers of fragmenting biomedical research, the direct opposite is true. Today there is no comprehensive and coherent overall plan for the conduct or the coordination of the cancer research program itself or for its coordination with other biomedical research. The Panel recommendation, strongly influenced on this point by the views of the Director of the National Cancer Institute, calls for an overall plan to be generated primarily by a representative cross section of the best of the scientists who will be responsible for its implementation. The plan would then be carried out by mobilizing the cancer research potential of this nation. Total cancer centers would be supported in their research activities to the full extent of their potential, and segments of institutions such as medical schools, universities, and private resources, would be supported to the extent of their commitment to cancer research. A vast new national effort would be instituted under a coherent overall plan.

In addition, our recommendations call for the kind of coordination of the effort which will enable the scientists at work on this program to know what other scientists are doing in the same and related fields.

"Fragmentation of medical research" is not necessarily related to common funding. Its avoidance depends upon the existence of a plan and the effectiveness of the coordination thereunder. However, this has become a favorite phrase of those opposed to the independent management of the cancer effort, although I have never seen it accompanied by any analysis of the degree of fragmentation that exists today or the effect of the recommended coordination under the new proposals.

To avoid fragmentation we need improved coordination of relevant medical research and improved communication and information exchange among scientists at work on the cancer effort, and between cancer scientists and scientists in other related fields. This calls for a more effective use of modern technology than is currently employed in the cancer program. We must make effective use of electronic data processing, high-speed communication, closed circuit television and other modern technological tools to improve our communications and to accelerate our progress in this field. This is one area where we can make modern technology work for us in a field of vast human concern.

We want to see the cancer effort organized so that the mission can be clearly defined as the conquest of cancer, and so that the management, planning, and coordination can be directed to that end, and the progress of the effort measured against that standard. This is the kind of changed emphasis that this great human cause requires. If the conquest of cancer is to be recognized as one of our highest national priorities, we must not be afraid of the organizational changes necessary to make it so.

The President, in his most recent statement on cancer on May 11, has recognized the need for independence in the manage-

ment of the cancer effort, and the necessity of eliminating what he describes as "the familiar dangers of bureaucracy and red tape." Accordingly, he has suggested a cancer agency within N.I.H. which would have independent budgetary status and a director responsible directly to the President, and supported by a strong management group which, in the words of the President, "has as its one goal the cure of cancer and which can pursue that goal with single-minded tenacity."

He also recommended an Advisory Committee very similar to that recommended by our Panel. In my view, the President's cancer proposal, which he identified as one of our highest priorities, affords a basis for resolving the differences that have existed between those supporting the recommendations of the Panel and those in the Administration who have opposed an independent cancer authority.

The goals set forth in the President's statement are exactly those which our Panel's recommendations were designed to achieve. Secretary Richardson and I are scheduled to appear tomorrow morning before the Health Subcommittee considering the cancer legislation, and I am most hopeful that we will resolve all the differences on organization so that a new and invigorated cancer effort can move forward promptly with maximum efficiency and the high promise that it deserves.

On the question of cost, our Panel estimates that a coordinated national program aimed at conquering cancer at the earliest possible time would require an appropriation in fiscal 1972 of approximately $400 million. This is slightly less than a doubling of the fiscal '71 appropriation. Thereafter, the cost of the program would increase at the rate of approximately $100 to $150 million per year, reaching a level of $800 million to $1 billion in 1976. We have stressed the fact that it is of the utmost importance that the financing of this program not result in cutbacks in other health programs.

I would like to emphasize again the point that Mr. Rockefeller made that much of the cancer research that goes on today, and much of the work that will go on in the future, will be paid by private, non-government funds. Thus, the role of the American Cancer Society in its research and educational programs will continue to be vital and in many ways become more vital with an improved and intensified Federal program.

Cancer is an implacable foe, and no one wants to create false hopes or unwarranted expectations. Cancer is not a single disease, and it probably will not lend itself to a single form of immunization or a single cure. However, as we have seen, there are vast new insights which can manifest themselves in greatly extended cancer prevention and cancer cure. Today, we are already curing many cancers through surgery; radiotherapy and chemotherapy, and combinations of these treatments. A great many more cancers will be prevented and cured as a result of the work that will be done under this program.

One by one the diseases which we identify as cancer will yield. Based on the new insights that exist today, there is no question in my mind that, if we make this effort now, and if we plan it, organize it, and fund it right, we will in a relatively short period of time make vast inroads on the cancer problem as we know it today.

How better could we commence the reorientation of our national priorities? Where could we find a better field in which to make our advanced technologies and scientific skills work for us and for all humanity?

IRVING ABRAMSON RETIRES FROM SERVICE TO THE LABOR MOVEMENT

Mr. DOLE. Mr. President, on July 1, Mr. Irving Abramson, general counsel of the International Union of Electrical, Radio, and Machine Workers, will retire at age 65 from a long and distinguished career.

Mr. Abramson has, for more than 40 years, served his Nation, his State, and the cause of America's working men and women. He has held numerous CIO positions, been a member of the New Jersey State Housing Authority and the State Rehabilitation Commission, and during World War II was a member of the executive committee of the National War Fund, the Enemy Alien Board, and was chairman of the CIO War Relief Committee.

Tomorrow evening, Mr. Abramson will be saluted at a dinner in New York City. I join with his many friends and admirers and extend my congratulations to Mr. Abramson for his years of service within the labor movement and to the public, and wish him many active and pleasant years of retirement.

FUNDS FOR SOCIAL WORK PERSONNEL

Mr. PERCY. Mr. President, the 1972 Health, Education, and Welfare budget cuts in funds for the training of social work personnel. On June 10, 1971, Helen G. Rabichow, executive director of the Scholarship and Guidance Association, appeared before the House Subcommittee on Labor, Health, Education and Welfare to testify against those cuts.

Under Helen Rabichow's gifted and dedicated leadership, the Scholarship and Guidance Association has provided invaluable social work services to disadvantaged and emotionally disturbed adolescents and their families in the Chicago area. She has helped many youths realize their individual worth and potential to become productive citizens of society.

I believe that Helen Rabichow's very fine and moving statement ought to be brought to the attention of the Senate, therefore, I ask unanimous consent that her testimony be printed in the RECORD.

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

TESTIMONY OF HELEN G. RABICHOW, EXECUTIVE DIRECTOR, SCHOLARSHIP AND GUIDANCE ASSOCIATION, BEFORE THE HOUSE APPROPRIATIONS ON LABOR AND HEALTH, EDUCATION, AND WELFARE

I appreciate this opportunity to testify before this Committee against proposed reductions in federal funds for social work education. I am the Executive Director of Scholarship and Guidance Association, a non-sectarian, interracial, private social agency which has specialized for 60 years in counseling disadvantaged and emotionally disturbed adolescents and their families in the Chicago area.

Young people are referred to us for a wide range of problems which include: underachievement in school, truancy, misbehavior and drop-out; delinquencies such as theft, curfew violations, gang involvement, sexual acting-out, drinking, drug usage, run-aways and other behavior which infringe on the law; disturbed interpersonal relationships with parents, peers and others; internalized problems such as depression, isolation, inhibition, suicidal and homicidal tendencies.

In addition to our direct service function of counseling young people whose emotional problems interfere with their life functioning, we devote part of our resources to the training of professionals in our own field and in related fields and non-professionals. We also engage in certain agency-based research activities which have resulted in the publication of articles in various journals and in the publication of two books: *The Drop-Outs: A Treatment Study of Intellectually Capable Students Who Drop Out of High School*, 1962; and *The High School Adolescent: Understanding and Treating His Emotional Problems*, 1969. These books have received laudatory reviews and constitute a solid contribution to the understanding and treatment of the adolescent. They are pertinent not only for knowledge and practice in the field of social work but for allied disciplines—teachers, guidance counselors, ministers, employment and college counselors. They are useful for practitioners at various levels of training.

We are not directly affected by the proposed reductions in funds for the training of social work personnel. Our Agency has never received public funds either for program or for training. Our Board of Directors raises two-thirds of the budget and we receive one-third from the Community Fund of Chicago. But we are deeply concerned because we know that inevitably such cuts will lead to a reduction in the number of people who will come into the field of social welfare. If we are to provide essential services to youth in trouble who are inheriting a world of increasing complexity, we need professionally trained personnel in social work practice. I should like to tell you why and I can do this best by sharing two letters with you.

COPY OF LETTER RECEIVED APRIL 28, 1971

DEAR——: I'm sure you must be quite surprised to hear from me, but the assistance given me by the Association and yourself surely merit your knowledge of my success.

Last August I completed the requirements for a Master of Science degree in Education with a concentration in Guidance and Counseling. Also, because I graduated from the University of Illinois in liberal arts, I completed the requirements for Class B. Professional Teaching Certification in Social Studies and English. This was at Alabama A&M University in Normal (Huntsville), Alabama.

I hope to return there to be hooded for the May 23rd exercises. Also I was informed recently that I was the recipient of the President's Cup for academic honors. I finished with a 3.9 average of a possible 4.0.

This morning I was phoned by a professor from Michigan State University. I've been accepted for the fall '71 term to pursue the doctor of philosophy degree in Clinical Psychology. Also I've been granted an assistantship to complete my study.

I do so much thank you and the Association for everything done. You helped to make my next step possible. The faith you expressed when things looked negative certainly helped me to keep the faith. I shall always be grateful.

I wish to express gratitude also to the Community Trust, to those who saw fit to grant me the money to help complete my undergraduate education.

Thank you.

GENICE R.

Genice, the oldest of five, was raised on Aid to Dependent Children in a large public housing project noted for its high crime, delinquency and violence rates. Her mother was a highly aggressive, demanding woman and while these behavior patterns undoubtedly helped her to survive in the ghetto, they created problems for her children, especially Genice. Overly and rigidly protected, Genice was allowed no opportunities for normal personality development. When she was referred during her senior year of high school (to "prepare" her for college) she was unusually immature, fearful, inhibited. At best she appeared only amiably mediocre.

Through the counseling relationship which lasted about three years, Genice was

able to begin a process of remarkable growth which enabled her finally to reach a state of appropriate maturation and independence, to realize her own potentials and to overcome many of the disadvantages of her early life. But this was not without many trials and tribulations. We obtained scholarship aid for Genice to attend an out-of-town but nearby state college. She was unprepared for campus life; poor high school preparation made it hard for her to compete and it was a long struggle for her to achieve study habits; in addition she was the only black. And while Genice's mother was ambitious for her daughter and insisted on college for her, she was also envious, fearful of losing control over her, and she engaged in many acts of sabotage. However, Genice managed to complete one year, dropped out and worked for a year, returned to a Jr. College for another, and then with our help in reinstating scholarship aid, she entered the University of Illinois.

COPY OF LETTER RECEIVED FEBRUARY 17, 1971

DEAR ——: Just a little note to let you know I'm doing fine and that I haven't forgotten the faces at Scholarship and Guidance.

I will be graduating from Illinois State University this June and plan to go on to graduate school at the University of Illinois. I will graduate with a B.A. in psychology and am entering a doctoral program, hopefully in clinical psychology, after I get my degree.

Things sure have changed for me since those confused days of my junior and senior years of high school. I don't know what I would have done without the kind help, attention and understanding I received at Scholarship and Guidance. As I look back upon those sessions I cite as the most important aspect the insight I gained about myself and my potentials. Though one never fully understands one's self it helps when one can have the courage and knowledge to see one's self and attempt to understand. Thank you for this courage. Thank you for making life a nice thing to live, a brighter experience.

My thanks to all of you for helping me to pull back the curtains that allowed the sun to shine in.

A friend,

CARMEN Q.

Carmen was 16 when she was referred to us by the teacher-nurse of her high school because of feelings of depression, inadequacy and self-doubt. Unhappiness to her, it turned out, was the natural state of affairs. Carmen was the youngest of 10 children (7 living) all born in Puerto Rico. The parental relationship, although lasting for 15 years, had been a violent and stormy affair and finally ended when the mother divorced the father and came to Chicago. Carmen was then 6.

The course of counseling which lasted two years was filled with many crises. Carmen, a highly sensitive girl, was reacting to early maternal deprivation, unstable family relationships and cultural discrepancies with rage, hysteria, suicidal attempts and threats. She wrote beautiful poetry of a deeply depressive nature. All of this was complicated by the additional turmoil of the adolescent process. But she wanted help and she clung to the relationship with her counselor who skillfully guided her through the complexities of her own personality. By the time she graduated from high school and was enrolled in college, she had matured considerably and demonstrated greater ability than ever before to cope with the realities of her life.

It sounds simple, but between the beginning of counseling and its conclusion lies a helping process of great complexity which requires training, knowledge, skill and a concern for the welfare of others. For the helper it must begin with professional training, and professional education of course, costs money.

It takes two years of graduate work in a school of social work to get a Masters' degree and the current cost is $10,000. But it also costs $10,000 to maintain a girl for two years at Geneva, a correctional institution in Illinois for delinquent girls. It costs $10,000 to maintain a person for one hundred days ($100 per day) at Illinois State Psychiatric Institute, a residential treatment center for the emotionally disturbed.

There are many non-viable alternatives to the solution of problems which unfortunately young people in trouble seek out. Through professional social work services Genice and Carmen were helped to break cycles of poverty and dependency to give up destructive and unprofitable attempts to deal with life and to choose productive alternatives.

Let us look at the cost of education in another way. These girls have already reached a state of high employability. At the Ph.D. level, they can each earn, say, over a 25-year period of employment, $20,000 a year, or a total of $500,000. In other words, a $10,000 investment in the education of one professional social worker can produce a $500,000 earning power capability in a single client. The productivity and ability of each girl to contribute to society by virtue of her own training contributes not only to the human welfare of this country but to the G.N.P.

Realistically there will never be enough professionally trained people to cover total need, and indeed, people require a range of different kinds of help. It is possible, from the head count of one professionally trained person at the top, to build a pyramid which includes the manpower available in paraprofessionals, case aides, volunteers etc. In this way, we can begin to meet in a number of creative ways more of the problems which young people have, especially during these turbulent years, and to meet them with a variety of helping techniques. Thus the impact of a trained person has a multiplier factor which defies simple arithmetic. We have seen this in our own agency through our training and seminar programs for other disciplines, lay groups, our publications, and our recently instituted volunteer program. But all such activities must have direction from the trained professional at the top of the pyramid in order to create ever broadening benefits.

We all want a society in which every young person can fulfill the promise that is in him and where no one is damaged by circumstances that can be prevented. Our goals are to provide services to our youth which will help them release their own human potentials and enhance their own individual dignity. Genice and Carmen no longer have to lead lives of quiet desperation. There are many more such young people and they can be helped, if we are willing to invest in them and in those who seek to be the instruments of help.

I hope you will consider this presentation in your deliberations and I thank you for your time.

IRVING ABRAMSON

Mr. INOUYE. Mr. President, I wish to pay tribute to one of America's more distinguished labor and civic leaders, Mr. Irving Abramson of New Jersey.

Irving Abramson's life exemplifies that which has made America great and unique among the nations of the world. His life demonstrates so well the ability of a man born to poverty, to rise through his own determination in a system providing educational opportunity to heights undreamed by the poor of most countries.

Mr. Abramson is most noted for his contributions to the American labor movement. However, as a labor leader and as a labor attorney he has always been willing to move beyond any narrow interests of labor to involve himself in national and international endeavors to advance the economic security and social dignity of all people.

On July 1 of this year he will retire as general counsel of the International Union of Electrical, Radio, and Machine Workers. As the former eastern area director of the CIO, president of the New Jersey State CIO Council, and regional director of the New Jersey-Maryland-Delaware Political Action Committee he not only compiled a distinguished career but a host of friends and admirers. I know they also join in wishing him well on the occasion of the dinner held in his honor in New York City this week.

THE MEANING OF THE BELL AND PEREZ SUPREME COURT DECISIONS FOR COMPENSATION OF AUTOMOBILE ACCIDENT VICTIMS

Mr. HART. Mr. President, trial lawyers, insurance agents, and others with a personal pocketbook interest in the present system of compensation for victims of automobile accidents are fond of arguing that no-fault motor vehicle insurance, such as that envisioned by S. 945 and H.R. 7514, is unconstitutional.

The fact is that the Supreme Court of the United States, in two separate opinions on May 24 and June 1, has just held unconstitutional much of the present fault-oriented motor vehicle insurance legislation.

In *Bell* v. *Burson,* 39 U.S. Law Week 4607, May 24, 1971, the Supreme Court struck down a Georgia law that authorizes the suspension of driving privileges after an accident unless the driver then posts security to cover the possible damage he has caused. The Court held that in the context of the fault system in Georgia, the State must first prove that the driver was at fault before it can suspend his license. Many States today rely on the requirement that a driver post security after an accident, under the threat of losing his driver's license, to provide compensation for the victims of automobile accidents. They may no longer do so.

In *Perez* v. *Campbell,* 39 U.S. Law Week 4618, June 1, 1971, the Supreme Court struck down an Arizona law that authorizes the suspension of driving privileges if a personal injury judgment is unpaid for 60 days, even though the debtor has been adjudicated a bankrupt in Federal court and obtained a Federal discharge in bankruptcy. According to a footnote in the dissenting opinion, 44 of our States authorize suspension of driving privileges in case of an unsatisfied automobile personal injury judgment even though the debt was discharged in bankruptcy. All these laws are probably now void. These 44 States have been rendered largely incapable of helping the automobile victim who has the bad luck to be struck by a driver who obtains a discharge in bankruptcy after judgment is entered against him for the automobile-caused injuries, unless we in the Congress act to guarantee adequate compensation to every automobile accident victim.

No doubt the editors of our university law reviews will make these two decisions the subject of many case comments and analyses. They are very significant decisions.

The impact of Bell and Perez will not be restricted to a few remote contingencies. These cases, and the doctrines applied in them, portend the total collapse of the financial responsibility laws of this country. It is not too much to say that each and every American who drives or rides in an automobile, except those in the three compulsory insurance law States of New York, Massachusetts, and North Carolina, is now in greater danger of receiving no compensation if injured in a motor vehicle accident, even though he was free from contributory negligence and the defendant was clearly negligent. At the very least, motorists in those States will have to pay significantly higher premiums for uninsured motorist insurance and for payments to State unsatisfied judgment funds.

The biggest incentives to the purchase of automobile liability insurance—the realization that if you do not have insurance, you will have to post cash or bond security after the accident for full possible damages or lose your license to drive, and the realization that Federal bankruptcy will be no shelter—have been eliminated. It is safe to predict a substantial increase in the number of uninsured motorists on the Nation's highways and greatly increased pressure on the State unsatisfied judgment funds. The good drivers are going to have to pay more premium dollars for the same limited protection they get now under the inefficient fault system.

The essence of the financial responsibility laws of 47 of the 50 States was stated in a 1950 decision of the Supreme Court of California, quoted in the Perez decision in footnote 11:

> The state chose to allow financially irresponsible licensed operators to drive until they became involved in an accident with the consequences described in the [financial responsibility law] and their financial irresponsibility was thus brought to the attention of the department, and then to require suspension of their licenses. *Escobedo* v. *State Dept. of Motor Vehicles*, 35 Cal. 2d 870, 876, 222 P. 2d 1, 6 (1950).

That approach will no longer work, even minimally and inefficiently, for the States can no longer easily and quickly suspend licenses as to financially irresponsible drivers.

In 1967, as the table which I shall ask be printed at the close of my remarks shows, in the States with financial responsibility laws, in 17, 10 to 20 percent of the private passenger vehicles were uninsured, in 16, 25 to 30 percent were uninsured, in three, 30 to 35 percent were uninsured, and in five, 35 percent or more were uninsured. In fact, in some of our larger cities, such as Chicago and Philadelphia, the number of uninsured vehicles, at any given time, may be as high as 40 percent.

On the other hand, in compulsory insurance States, over 90 percent of the vehicles have coverage.

Not surprisingly, the cost of uninsured motorist coverage has always been greater in financial responsibility States than in compulsory insurance States. That differential will most likely increase, because many drivers in financial responsibility States may stop buying liability insurance in the wake of Bell and Perez. Why should they continue to buy coverages to protect someone else? If they are involved in an accident in which others are injured, their licenses cannot be touched unless fault or negligence is proved against them first. If fault or negligence is proved and a judgment is obtained, all they had to do is to go to the nearest U.S. district court and file a voluntary petition in bankruptcy and list the judgment. After the debt has been discharged, they cannot have their driving privileges suspended or revoked. The "carrot" and the "stick" which enabled automobile insurance to function, at least somewhat—although at enormous disadvantage to the consumer—is gone.

The demise of financial responsibility laws foreshadowed by these Supreme Court decisions of Bell against Burson and Perez against Campbell means that automobile insurance must be made a condition for driving in the first place; it must be made a compulsory requirement for motor vehicle operation. Mr. Kearney, the executive director of the National Committee on Uniform Traffic Laws, stated as much after the Perez decision was announced.

According to the New York Times for June 2, 1971, Mr. Kearney said that these two decisions:

> Would probably prompt a majority of the States to require all motorists to purchase insurance before they can own a car.

If we now have no alternative but compulsory automobile insurance—if we indeed care about the suffering and loss of the victims of automobile accidents—what kind shall it be: Compulsory liability-for-negligence auto insurance or compulsory no-fault auto insurance? The one State that has had a compulsory liability-for-negligence statute for a long period—40 years—is Massachusetts. Massachusetts is now the first and only State to have a compulsory, very limited, no-fault system. The latest report I have seen from Massachusetts is that:

> Their partial no-fault system is working even better than anticipated . . . [T]he frequency of bodily injury claims in the commonwealth has dropped a startling 60 percent. The average paid claim under no-fault has decreased by 36 percent *Boston Sunday Globe*, June 6, 1971, p. 1.

There has been criticism of the Hart-Magnuson bill in the Senate and the Moss bill in the House because it would establish national no-fault. The argument seems to be that automobile insurance has traditionally been a State matter and therefore should remain forever as a State matter. The Federal Supreme Court has now acted, and it has held in effect that under the Supremacy Clause State automobile insurance statutes must fall where they conflict with the 14th amendment's guarantee of procedural due process or with the Federal bankruptcy power. As a result of the Bell and Perez decisions, automobile insurance law is no longer exclusively State law. There are now two significant elements of Federal automobile insurance law, and a close reading of the opinions suggests that there may be more. Now that automobile insurance law is a mixture of statutes in the States and Federal case law, we have a difficult situation. Who can foresee the exact impact of the constitutional decisions of May 24 and June 1 on the automobile insurance statutes of the States?

Mr. President, the time has come for a national no-fault system of compensation for victims of automobile accidents. Extensive hearings have been held on S. 945 and H.R. 7514; it is time that they be acted on in committee and then reported for consideration by the Congress.

Mr. President, I ask that table 1, copies of the two Supreme Court decisions, the Boston Sunday Globe article and an editorial from the Weekly Underwriter be printed in the RECORD immediately following my remarks.

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

DISTRIBUTION OF SELECTED STATES[1] BY PERCENTAGE OF PRIVATE PASSENGER VEHICLES INSURED FOR LIABILITY—1967

90 PERCENT AND OVER

New York, North Carolina, Maryland.[2]

85–89 PERCENT

Connecticut, Michigan, New Hampshire, New Jersey, Oregon, South Carolina, Vermont, Wisconsin.

80–84 PERCENT

California, Colorado, Hawaii, Indiana, Iowa, Maine, Nebraska, Pennsylvania, Wyoming.

75–79 PERCENT

Delaware, Florida, Idaho Minnesota, Montana, Ohio, Rhode Island, South Dakota, Washington.

70–74 PERCENT

Arizona, Kansas, Missouri, New Mexico, North Dakota, Tennessee, Utah.

65–69 PERCENT

Kentucky, Texas, West Virginia.

UNDER 65 PERCENT

Alabama, Arkansas, Georgia, Mississippi, Nevada.

(NOTE.—Where it is deemed desirable, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.*, 200 U.S. 321, 337.)

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[1] Omitted are data for Alaska, District of Columbia, Illinois, Louisiana, Massachusetts, Oklahoma, Virginia. For explanation, see text.

[2] This study was unable to determine the percent of motorists insured for automobile liability coverages in Maryland; however, a sample survey of motor vehicle registrations done by the state in November 1967 indicates 92 percent of private passenger vehicles were covered by liability insurance.

Source: Driver behavior and accident involvement: Implications for tort liability, part III, drivers without insurance, at p. 205, Department of Transportation, October 1970.

[Supreme Court of the United States, Syllabus]

PEREZ ET AL. *v.* CAMPBELL, SUPERINTENDENT, MOTOR VEHICLE DIVISION, ARIZONA HIGHWAY DEPARTMENT, ET AL.

Certiorari to the United States Court of Appeals for the Ninth Circuit.

[No. 5175. Argued January 19, 1971—Decided June 1, 1971]

The provision that "discharge in bankruptcy following the rendering of any such judgment [as a result of an automobile accident] shall not relieve the judgment debtor from any of the requirements of this article," contained in Ariz. Rev. Stat. 28–1163 (B), part of the Motor Vehicle Safety Responsibility Act, which the Arizona courts have construed as having as "its principal purpose the protection of the public using the highways from financial hardship which may result from the use of automobiles by financially irresponsible persons," directly conflicts with 17 of the Bankruptcy Act, which states that a discharge in bankruptcy fully discharges all but certain specified judgments, and is thus unconstitutional as violative of the Supremacy Clause. *Kesler* v. *Department of Public Safety*, 369 U. S. 153, and *Reitz* v. *Mealey*, 314 U. S. 33 have no authoritative effect to the extent they are inconsistent with the controlling principle that state legislation that frustrates the full effectiveness of federal law is invalidated by the Supremacy Clause. Pp. 7–19.

421 F. 2d 619, reversed and remanded.

WHITE, J., delivered the opinion of the Court, in which BLACK, DOUGLAS, BRENNAN, and MARSHALL, JJ., joined. BLACKMUN, J., filed an opinion concurring in the result as to petitioner Emma Perez and dissenting as to petitioner Adolfo Perez, in which BURGER, C.J., and HARLAN and STEWART, J.J., joined.

(NOTICE.—This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.)

[Supreme Court of the United States, No 5175.—October Term, 1970]

ADOLFO PEREZ ET UX., PETITIONERS, v. DAVID H. CAMPBELL, SUPERINTENDENT, MOTOR VEHICLE DIVISION, ARIZONA HIGHWAY DEPARTMENT, ET AL.

On writ of certiorari to the United States Court of Appeals for the Ninth Circuit.

[June 1, 1971]

Mr. JUSTICE WHITE delivered the opinion of the Court.

This case raises an important issue concerning the construction of the Supremacy Clause of the Constitution—whether Ariz. Rev. Stat. § 28–1163(B), which is part of Arizona's Motor Vehicle Safety Responsibility Act, is invalid under that clause as being in conflict with the mandate of § 17 of the Bankruptcy Act, 11 U.S.C. § 35 providing that receipt of a discharge in bankruptcy fully discharges all but certain specified judgments. The courts below, concluding that this case was controlled by *Kesler* v. *Department of Public Safety*, 369 U.S. 153 (1962), and *Reitz* v. *Mealey*, 314 U.S. 33 (1941), two earlier opinions of this Court dealing with alleged conflicts between the Bankruptcy Act and state financial responsibility laws, ruled against the claim of conflict and upheld the Arizona statute.

On July 8, 1965, petitioner Adolfo Perez, driving a car registered in his name, was involved in an automobile accident in Tucson, Arizona. The Perez automobile was not covered by liability insurance at the time of the collision. The driver of the second car was the minor daughter of Leonard Pinkerton, and in September 1966 the Pinkertons sued Mr. and Mrs. Perez in state court for personal injuries and property damage sustained in the accident. On October 31, 1967, the petitioners confessed judgment in this suit, and a judgment order was entered against them on November 8, 1967, for $2,425.98 plus court costs.

Mr. and Mrs. Perez each filed a voluntary petition in bankruptcy in Federal District Court on November 6, 1967. Each of them duly scheduled the judgment debt to the Pinkertons. The District Court entered orders on July 8, 1968, discharging both Mr. and Mrs. Perez from all debts and claims provable against their estates, including the Pinkerton judgment. 11 U.S.C. § 35; *Lewis* v. *Roberts*, 267 U.S. 467 (1925).

During the pendency of the bankruptcy proceedings, the provisions of the Arizona Motor Vehicle Safety Responsibility Act came into play. Although only one provision of the Arizona Act is relevant to the issue presented by this case, it is appropriate to describe the statutory scheme in some detail. The Arizona statute is based on the Uniform Motor Vehicle Safety Responsibility Act promulgated by the National Conference on Street and Highway Safety.[1] Articles 1 and 2 of the Act deal, respectively, with definitional matters and administration.

The substantive provisions begin in Article 3, which requires the posting of financial security by those involved in accidents. Section 28–1141 of that article requires suspension of licenses for unlawful failure to report accidents, and § 28–1142 provides that within 60 days of the receipt of an accident report the Superintendent of the Motor Vehicle Division of the Highway Department shall suspend the driver's license of the operator and the registration of the owner of a car involved in an accident "unless such operator or owner or both shall deposit security in a sum which is sufficient in the judgment of the superintendent to satisfy any judgment or judgments for damages resulting from the accident as may be recovered against the operator or owner." Under the same section, notice of such suspension and the amount of security required must be sent to the owner and operator not less than 10 days prior to the effective date of the suspension. This section does not apply if the owner or the operator carried liability insurance or some other covering bond at the time of the accident, or if such individual had previously qualified as a self-insurer under § 28–1222. Other exceptions to the requirement that security be posted are stated in § 28–1143.[2] If none of these exceptions applies, the suspension continues until: (1) the person whose privileges were suspended deposits the security required under § 28–1142; (2) one year elapses from the date of the accident and the person whose privileges were suspended files proof with the superintendent that no one has initiated an action for damages arising from the accident; (3) evidence is filed with the superintendent that a release from liability, an adjudication of nonliability, a confession of judgment, or some other written settlement agreement has been entered.[3] As far as the record in the instant case shows, the provisions of Article 3 were not invoked against petitioners, and the constitutional validity of these provisions is of course not before us for decision.

Article 4 of the Arizona Act, which includes the only provision at issue here, deals with suspension of licenses and registrations for nonpayment of judgments. Interestingly, it is only when the judgment debtor in an automobile accident lawsuit—usually an owner-operator like Mr. Perez—fails to respond to a judgment entered against him that he must overcome two hurdles in order to regain his driving privileges. Section 28–1161, the first section of Article 4, requires the state court clerk or judge, when a judgment[4] has remained unsatisfied for 60 days after entry, to forward a certified copy of the judgment to the superintendent.[5] This was done in the present case, and on March 13, 1968, Mr. and Mrs. Perez were served with notice that their driver's licenses and registration were suspended pursuant to § 28–1162(A).[6] Under other provisions of Article 4, such suspension is to continue until the judgment is paid,[7] and § 28–1163(B) specifically provides that "[a] discharge in bankruptcy following the rendering of any such judgment shall not relieve the judgment debtor from any of the requirements of this article." In addition to requiring satisfaction of the judgment debt, § 28–1163(A) provides that the license and registration "shall remain suspended and shall not be renewed, nor shall any license or registration be thereafter issued in the name of the person, . . . until the person gives proof of financial responsibility" for a future period.[8] Again, the validity of this limited requirement that some drivers post evidence of financial responsibility for the future in order to regain driving privileges is not questioned here. Nor is the broader issue of whether a State may require proof of financial responsibility as a precondition for granting driving privileges to anyone before us for decision. What is at issue here is the power of a State to include as part of this comprehensive enactment designed to secure compensation for automobile accident victims a section providing that a discharge in bankruptcy of the automobile accident tort judgment shall have no effect on the judgment debtor's obligation to repay the judgment creditor, at least insofar as such repayment may be enforced by the withholding of driving privileges by the State. It was that question, among others, which petitioners raised after suspension of their licenses and registration by filing a complaint in Federal District Court seeking declaratory and injunctive relief and requesting a three-judge court. They asserted several constitutional violations, and also alleged that § 28–1163(B) was in direct conflict with the Bankruptcy Act and was thus violative of the Supremacy Clause of the Constitution.[9] In support of their complaint, Mr. and Mrs. Perez filed affidavits stating that the suspension of their licenses and registration worked both physical and financial hardship upon them and their children. The District Judge granted the petitioners leave to proceed *in forma pauperis*, but thereafter granted the respondents' motion to dismiss the complaint for failure to state a claim upon which relief could be granted, citing *Kesler* and *Reitz*.[10] The Court of Appeals affirmed, relying on the same two decisions. *Perez* v. *Campbell*, 421 F. 2d 619 (CA9 1970). We granted certiorari. 400 U.S. 818 (1970).

I

Deciding whether a state statute is in conflict with a federal statute and hence invalid under the Supremacy Clause is essentially a two-step process of first ascertaining the construction of the two statutes and then determining the constitutional question whether they are in conflict. In the present case, both statutes have been authoritatively construed. In *Schecter* v. *Killingsworth*, 93 Ariz. 273, 380 P. 2d 136 (1963), the Supreme Court of Arizona held that "[t]he Financial Responsibility Act has for its principal purpose the protection of the public using the highways from financial hardship which may result from the use of automobiles by financially irresponsible persons." 93 Ariz., at 280. The Arizona court has consistently adhered to this construction of its legislation, see *Camacho* v. *Gardner*, 104 Ariz. 555, 558, 456 P. 2d 925, 928 (1969); *New York Underwriters Ins. Co.* v. *Superior Court*, 104 Ariz. 544, 456 P. 2d 914 (1969); *Sandoval* v. *Chenoweth*, 102 Ariz. 241, 243, 428 P. 2d 98, 100 (1967); *Farmer* v. *Killingsworth*, 102 Ariz. 44, 47, 424

Footnotes at end of article.

P. 2d 172, 175 (1967); *Hastings* v. *Thurston*, 100 Ariz. 302, 306, 413 P. 2d 767, 770, (1966); *Jenkins* v. *Mayflower Ins. Exchange*, 93 Ariz. 287, 290, 380 P. 2d 145, 147 (1963), and we are bound by its rulings. See, *e.g.*, *General Trading Co.* v. *State Tax Comm'n*, 322 U.S. 335, 337 (1944). Although the dissent seems unwilling to accept the Arizona Supreme Court's construction of the statute as expressive of the Act's primary purpose [11] and indeed characterizes that construction as unfortunate, *post*, p. —, a reading of the provisions outlined above leaves the impression that the Arizona Court's description of the statutory purpose is not only logical but persuasive. The sole emphasis in the Act is one of providing leverage for the collection of damages from drivers who either admit that they are at fault or are adjudged negligent. The victim of another driver's carelessness, if he so desires, can exclude the superintendent entirely from the process of "deterring" a repetition of that driver's negligence.[12] Further, if an accident is litigated and a special verdict that the defendant was negligent and the plaintiff contributorily negligent is entered, the result in Arizona, as in many other States, is that there is no liability for damages arising from the accident. *Heimke* v. *Munoz*, 470 P. 2d 107. 106 Ariz. 26 (1970); *McDowell* v. *Davis*, 104 Ariz. 69, 448 P. 2d 869 (1968). Under the Financial Responsibility Act, the apparent result of such a judgment is that no consequences are visited upon either driver although both have been found to have driven carelessly. See Ariz. Rev. Stat. §§ 28–1143(A)(4), 28–1144(3). Moreover, there are no provisions requiring drivers proven to be careless to stay off the roads for a period of time. Nor are there provisions requiring drivers who have caused accidents to attend some kind of driver improvement course, a technique that is not unfamiliar in sentencing for traffic offenses.

Turning to the federal statute, the construction of the Bankruptcy Act is similarly clear. This Court on numerous occasions has stated that "[o]ne of the primary purposes of the bankruptcy act" is to give debtors "a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of preexisting debt." *Local Loan Co.* v. *Hunt*, 292 U.S. 234, 244 (1934). Accord, *e.g.*, *Harris* v. *Zion's Savings Bank & Trust Co.*, 317 U.S. 447, 451 (1943); *Stellwagen* v. *Clum*, 245 U.S. 605, 617 (1918); *Williams* v. *United States Fidelity & Guaranty Co.*, 236 U.S. 549, 554–555 (1915). There can be no doubt, given *Lewis* v. *Roberts*, *supra*, that Congress intended this "new opportunity" to include freedom from most kinds of preexisting tort judgments.

II

With the construction of both statutes clearly established, we proceed immediately to the constitutional question whether a state statute that protects judgment creditors from "financially irresponsible persons" is in conflict with a federal statute that gives discharged debtors a new start "unhampered by the pressure and discouragement of preexisting debt." As early as *Gibbons* v. *Ogden*, 9 Wheat. 1 (1824), Chief Justice Marshall stated the governing principle—that "acts of the State Legislatures . . . , [which] *interfere with*, or are contrary to the laws of Congress, made in pursuance of the constitution," are invalid under the Supremacy Clause. *Id.*, at 211 (emphasis added). Three decades ago MR. JUSTICE BLACK, after reviewing the precedents, wrote in a similar vein that, while "[t]his Court, in considering the validity of state laws in the light of treaties or federal laws touching the same subject, ha[d] made use of the following expressions: conflicting; contrary to; occupying the field; repugnance; difference; irreconcilability; inconsistency; violation; curtailment; and interference[,] . . . [i]n the final analysis," our function is to determine whether a challenged state statute "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Hines* v. *Davidowitz*, 312 U.S. 52, 67 (1941). Since *Hines* the Court has frequently adhered to this articulation of the meaning of the Supremacy Clause. See, *e.g.*, *Nash* v. *Florida Industrial Comm'n*, 389 U.S. 235, 240 (1967); *Sears, Roebuck & Co.* v. *Stiffel Co.*, 376 U.S. 225, 229 (1964); *Colorado Anti-Discrimination Comm'n* v. *Continental Air Lines, Inc.*, 372 U.S. 714, 722 (1963) (dictum); *Free* v. *Bland*, 369 U.S. 663, 666 (1962); *Hill* v. *Florida*, 325 U.S. 538, 542–543 (1945); *Sola Electric Co.* v. *Jefferson Electric Co.*, 317 U.S. 173, 176 (1942). Indeed, in *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U.S. 132 (1963), a recent case in which the Court was closely divided, all nine Justices accepted the *Hines* test. *Id.*, at 141 (opinion of the Court), 165 (dissenting opinion).

Both *Kesler* [13] and *Reitz*, however, ignored this controlling principle. The Court in *Kesler* conceded that Utah's financial responsibility law left "the bankrupt to some extent burdened by the discharged debt," 369 U.S. at 171, made "it more probable that the debt will be paid despite the discharge," *id.*, at 173, and thereby made "some inroad . . . on the consequences of bankruptcy. . . ." *Id.*, at 171. Utah's statute, in short, frustrated Congress' policy of giving discharged debtors a new start. But the *Kesler* majority was not concerned by this frustration. In upholding the statute, the majority opinion looked not to the effect of the legislation but simply asserted that the statute was "not an Act for the Relief of Mulcted Creditors," *id.*, at 174, and was "not designed to aid collection of debts but to enforce a policy against irresponsible driving. . . ." *Id.*, at 169. The majority, that is, looked to the purpose of the state legislation and upheld it because the purpose was not to circumvent the Bankruptcy Act but to promote highway safety; those in dissent, however, were concerned that, whatever the purpose of the Utah Act, its "plain and inevitable effect [was] to create a powerful weapon for collection of a debt from which [the] bankrupt [had] been released by federal law." *Id.*, at 183. Such a result, they argued, left "the States free . . . to impair . . . an important and historic policy of this Nation . . . embodied in its bankruptcy laws." *Id.*, at 185.

The opinion of the Court in *Reitz* was similarly concerned not with the fact that New York's financial responsibility law frustrated the operation of the Bankruptcy Act, but with the purpose of the law, which was divined as the promotion of highway safety. As the Court said:

"The penalty which § 94–b imposes for injury due to careless driving is not for the protection of the creditor merely, but to enforce a public policy that irresponsible drivers shall not, with impunity, be allowed to injure their fellows. The scheme of the legislation would be frustrated if the reckless driver were permitted to escape its provisions by the simple expedient of voluntary bankruptcy, and, accordingly, the legislature declared that a discharge in bankruptcy should not interfere with the operation of the statute. Such legislation is not in derogation of the Bankruptcy Act. Rather it is an enforcement of permissible state policy touching highway safety." 314 U.S., at 37.

The dissenting opinion written by MR. JUSTICE DOUGLAS for himself and three others noted that the New York legislation put "the bankrupt . . . at the creditor's mercy," with the results that "[i]n practical effect the bankrupt may be in as bad, or even worse, a position than if the State had made it possible for a creditor to attach his future wages" and that "[b]ankruptcy . . . [was not] the sanctuary for hapless debtors which Congress intended." *Id.*, at 41.

We can no longer adhere to the aberrational doctrine of *Kesler* and *Reitz* that State law may frustrate the operation of Federal law as long as the State legislature in passing its law had some purpose in mind other than one of frustration. Apart from the fact that it is at odds with the approach taken in nearly all our Supremacy Clause cases, such a doctrine would enable State legislatures to nullify nearly all unwanted Federal legislation by simply publishing a legislative committee report articulating some State interest or policy—other than frustration of the Federal objective—that would be tangentially furthered by the proposed State law. In view of the consequences, we certainly would not apply the *Kesler* doctrine in all Supremacy Clause cases. Although it is possible to argue that *Kesler* and *Reitz* are somehow confined to cases involving either bankruptcy or highway safety, analysis discloses no reason why the States should have broader power to nullify Federal law in these fields than in others. Thus, we conclude that *Kesler* and *Reitz* can have no authoritative effect to the extent they are inconsistent with the controlling principle that any state legislation which frustrates the full effectiveness of Federal law is rendered invalid by the Supremacy Clause. Section 28–1163 (B) thus may not stand.

III

Even accepting the Supreme Clause analysis of *Kesler* and *Reitz*—that is, looking to the purpose rather than the effect of State laws—those decisions are not dispositive of this case. Just as *Kesler* went a step beyond *Reitz* and broadened the holding of the earlier case, 369 U.S., at 184 (dissenting opinion), so in the present case the respondents asked the courts below and this Court to expand the holdings of the two previous cases. The distinction between *Kesler* and *Reitz* and this case lies in the State's expressed legislative purpose.

Kesler and *Reitz* were aberrational in their treatment of this question as well. The majority opinions in both cases assumed, without citation of state court authority or any indication that such precedent was unavailable, that the purpose of the state financial responsibility laws there under attack was not provision of relief to creditors but rather deterrence of irresponsible driving. The assumption was, in effect, that all state legislatures which had enacted provisions such as § 28–1163(B) had concluded that an uninsured motorist about to embark in his car would be more careful on the road if he did not have available what the majority in *Kesler* cavalierly characterized as an "easy refuge in bankruptcy." 369 U.S., at 173.[14] Passing the question of whether the Court gave sufficient attention to binding state interpretations of state legislative purpose and conceding that it employed proper technique in divining as obvious from their face the aim of the state enactments, the present case raises doubts about whether the Court was correct even in its basic assumptions. The Arizona Supreme Court has declared that Arizona's Financial Responsibility Act "has as its principal purpose the protection of the public . . . from financial hardship" resulting from involvement in traffic accidents with uninsured motorists unable to respond to a judgment. *Schecter* v. *Killingsworth*, *supra*, 93 Ariz., at 280. The Court in *Kesler* was able to declare, although the source of support is unclear, that the Utah statute could be upheld because it was "not an Act for the Relief of Mulcted Creditors" or a statute "designed to aid collection of debts." 369 U.S., at 169, 174. But here the State urges us to uphold precisely the sort of statute that *Kesler* would have stricken down—one with a declared purpose to protect judgment creditors "from financial hardship" by giving them a powerful weapon with which to force bankrupts to pay their

Footnotes at end of article.

debts despite their discharge. Whereas the acts in *Kesler* and *Reitz* had the effect of frustrating federal law but had, the Court said, no such purpose, the Arizona Act has both that effect and that purpose. Believing as we do that *Kesler* and *Reitz* are not in harmony with sound constitutional principle, they certainly should not be extended to cover this new and distinguishable case.

IV

One final argument merits discussion. The dissent points out that the District of Columbia Code contains an anti-discharge provision similar to that included in the Arizona Act. Motor Vehicle Safety Responsibility Act of the District of Columbia, D.C. Code, § 40–464 (1967 ed.), 68 Stat. 132 (1954). In light of our decision today, the sum of the argument is to draw into question the constitutional validity of the District's anti-discharge section, for as noted in the dissent the Constitution confers upon Congress the power "[t]o establish . . . *uniform* laws on the subject of Bankruptcies throughout the United States." U.S. Const., Art. II, § 8, cl. 4 (emphasis added). It is asserted that "Congress must have regarded the two statutes as consistent and compatible," *post*, p. ——, but such an argument assumes a modicum of legislative attention to the question of consistency. The D.C. Code section does, of course, refer specifically to discharges, but its passage may at most be viewed as evidencing an opinion of Congress on the meaning of the general discharge provision enacted by an earlier Congress and interpreted by this Court as early as 1925. See *Lewis* v. *Roberts*, *supra*. In fact, in passing the initial and amended version of the District of Columbia financial responsibility law, Congress gave no attention to the interaction of the anti-discharge section with the Bankruptcy Act.[15] Moreover, the legislative history is quite clear that when Congress dealt with the subject of financial responsibility laws for the District, it based its work upon the efforts of the uniform commissioners which had won enactment in other States.[16]

Had Congress focused on the interaction between this minor subsection of the rather lengthy financial responsibility act and the discharge provision of the Bankruptcy Act, it would have been immediately apparent to the legislators that the only constitutional method for so defining the scope and effect of a discharge in bankruptcy was by amendment of the Bankruptcy Act, which by its terms is a uniform statute applicable in the States, Territories, and the District of Columbia. 11 U.S.C. § 1 (29). To follow any other course would obviously be to legislate in such a way that a discharge in bankruptcy means one thing in the District of Columbia and something else in the States—depending on state law—a result explicitly prohibited by the uniformity requirement in the constitutional authorization to Congress to enact bankruptcy legislation.

V

From the foregoing, we think it clear that § 28–1163 (B) of the Arizona Financial Responsibility Act is constitutionally invalid. The judgment of the Court of Appeals is reversed and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

FOOTNOTES

[1] See Reviser's Note, Ariz. Rev. Stat. § 28–1101.

[2] Under Ariz. Rev. Stat. § 28–1143(A), the owner or operator of a car involved in an accident need not post security as required by § 28–1142: (1) if the accident caused injury or damage to no person or property other than the owner's car or the operator's person; (2) if the car was parked when involved in the accident, unless it was parked illegally or did not carry a legally sufficient complement of lights; (3) if the car was being driven or was parked by another without the owner's express or implied permission; (4) if prior to date for suspension the person whose license or registration would be suspended files with the superintendent a release, a final adjudication of nonliability, a confession of judgment, or some other written settlement agreement providing for payment, in installments, of an agreed amount of damages with respect to claims arising from the accident; or (5) if the driver at the time of the accident was driving a vehicle owned, operated, or leased by his employer with the employers' permission; in that case the security and suspension provisions apply only to the owner-employer's registration of vehicles not covered by insurance or other bond. Ariz. Rev. Stat. § 28–1143(A).

[3] This section further provides that the superintendent may employ suspension a second time as a means of enforcing payment should there be a default on installment obligations arising under a confession of judgment or a written settlement agreement. Ariz. Rev. Stat. § 28–1144(3).

[4] Ariz. Rev. Stat. § 28–1102 defines "judgment," for purposes of the Motor Vehicle Safety Responsibility Act, as "any judgment which has become final . . ., upon a cause of action arising out of the ownership, maintenance, or use of a motor vehicle, for damages, . . . or upon a cause of action on an agreement of settlement for such damages."

[5] Under Ariz. Rev. Stat. § 28–1161(B) a similar notice must also be forwarded to officials in the home State of a nonresident judgment debtor.

[6] "A. The superintendent upon receipt of a certified copy of a judgment, shall forthwith suspend the license and registration and nonresident operating privilege of a person against whom the judgment was rendered, except as otherwise provided in this section and § 28–1165."

[7] Ariz. Rev. Stat. § 28–1163(A). Ariz. Rev. Stat. § 28–1164 defines when a judgment is "paid." Ariz. Rev. Stat. § 28–1165 sets forth a procedure for paying judgments in installments. Ariz. Rev. Stat. § 28–1162(B) provides that if a creditor consents in writing and the debtor furnishes proof of financial responsibility, see Ariz. Rev. Stat. § 28–1167, the debtor's license and registration may be restored in the superintendent's discretion. After six months, however, the creditor's consent is revocable provided the judgement debt remains unpaid.

[8] Sections 28–1167 through 28–1178 set forth the requirements for various forms of proof. Under § 28–1178, the judgment debtor is apparently able to regain his license and registration to operate a motor vehicle without proof of financial responsibility after three years from the date such proof was first required of him, if during that period the superintendent has not received any notice—and notice can come from other States—of a conviction or forfeiture of bail which would require or permit the suspension or revocation of the driver's license and if the individual is not involved in litigaton arising from an accident covered by the security he posted. If the driver required to post financial security did so, and was involved as an owner or operator in another accident resulting in personal injury or property damage within one year prior to the date he requests permission to cancel his security, the superintendent may not permit cancellation.

[9] U. S. Const., Art. VI, cl. 2.

[10] Mr. and Mrs. Perez also alleged in their complaint that certain provisions of the Arizona Act imposed involuntary servitude in violation of the Thirteenth Amendment, and denied Fourteenth Amendment due process and equal protection. They also claimed that portions of the Arizona Act operated as a Bill of Attainder in violation of Article I, § 10, of the Constitution. The District Judge, in refusing to request the convening of a three-judge court, ruled that these constitutional claims were "obviously insubstantial." The Court of Appeals agreed. 421 F. 2d, at 625. Because of our resolution of this case, we express no opinion as to the substantiality of any of petitions' other constitutional claims.

[11] As discussed below, the majorities in *Kesler* and *Reitz* also seemed unwilling to be bound by, or even to look for, state court constructions of the financial responsibility laws before them. See pp. —, *infra*. It is clear, however, from even a cursory examination of decisions in other States that the conclusion of the Arizona Supreme Court as to the purpose of the financial responsibility law is by no means unusual. See, *e. g. Sullivan* v. *Cheatam*, 264 Ala. 71, 76, 84 So. 2d 374, 378 (1956) ("The purpose of the [Motor Vehicle Safety-Responsibility] Act is clearly to require and establish financial responsibility for *every* owner or operator of a motor vehicle 'in any manner involved in an accident.' . . . The Act is designed to protect all persons having claims arising out of highway accidents."); *Escobedo* v. *State Dept. of Motor Vehicles*, 35 Cal. 2d 870, 876, 222 P. 2d 1, 6 (1950) (". . . the state chose to allow financially irresponsible licensed operators to drive until they became involved in an accident with the consequences described in the [financial responsibility law] and their financial irresponsibility was thus brought to the attention of the department, and then to require suspension of their licenses."); *People* v. *Nothaus*, 147 Col. 210, 215–216, 363 P. 2d 180, 183 (1961) ("The requirement of C. R. S. '53, 13–7–7, that the director of revenue, '. . . shall suspend the license of each operator and all registrations of each owner of a motor vehicle in any manner involved in an accident . . .' unless such persons deposit a sum 'sufficient in the judgment of the director . . .' to pay any damage which may be awarded, or otherwise show ability to indemnify the other party to the accident against financial loss, has nothing whatever to do with the protection of the public safety, health, morals or welfare.

It is a device designated and intended to bring about the posting of security for the payment of a private obligation without the slightest indication that any legal obligation exists on the part of any person. The public gets no protection whatever from the deposit of such security. This is not the situation which we find in some States where the statutes require public liability insurance as a condition to be met *before a driver's license will issue*. Such a statute protects the public. The statute before us is entirely different. In the matters to which we have particularly directed attention, C. R. S. '53, 13–7–7, is unconstitutional. On a matter so obviously basic and fundamental no additional citation of authority is required. We reach this conclusion notwithstanding the fact that other jurisdictions have seemingly overlooked basic constitutional guarantees which must be ignored in reaching an opposite conclusion."); *Dempsey* v. *Tynan*, 143 Conn. 202, 208, 120 A. 2d 700, 703 (1956) ("The purpose of the legislature in enacting the financial responsibility provisions . . . was to keep off our highways the financially irresponsible owner or operator of an automobile who cannot respond in damages for the injuries he may inflict, and to require him, as a condition for securing or retaining a registration or an operator's license, to furnish adequate means of satisfying possible claims against him."); *City of St. Paul* v. *Hoffman*, 223 Minn. 76, 77–78, 25 N. W. 2d 661, 662–663 (1947) ("The apparent objective of the safety responsibility act is to provide financial responsibility for injuries and damages suffered in motor vehicle traffic. It seeks to achieve its objective solely by the suspension of license.

While its announced purpose is to promote safety of travel, its provisions take effect after an accident happens and subject driv-

ers and owners of vehicles involved to suspension of their 'licenses' unless liability insurance coverage equivalent to that required by the act is carried by the owner or driver of the vehicle. . . . The purpose of the act was to effect financial responsibility to injured persons."); *Rosenblum* v. *Griffin*, 89 N. H. 314, 317–318, 197 A. 701, 704 (1938) ("Two reasons were thought to avail for sustaining such a law. One was its character as a regulation of the use of public highways, and the other was its capacity to secure public safety in dangerous agencies and operations. This latter reason has slight if any evidence for its factual support. Certainly, in the absence of known experience and statistics, it is doubtful whether the insured owner's car, driven either by himself or another, may be considered to be operated more carefully than one whose owner is uninsured. But protection in securing redress for injured highway travelers is a proper subject of police regulation, as well as protection from being injured. It is a reasonable incident of the general welfare that financially irresponsible persons be denied the use of the highway with their cars, regardless of the competency of themselves or others as the drivers."). For legislative statements to the effect that financial responsibility laws are designed to secure compensation for injured victims, see, *e. g.*, Alaska Stat. § 28.20.010 (1962); *Gillaspie* v. *Dept. of Public Safety*, 152 Tex. 459, 463, 259 S. W. 2d 177, 180 (1953) (quoting emergency clause enacted by the Texas Legislature in connection with its financial responsibility law); S. Rep. No. 515, 83d Cong., 1st Sess., 2 (1953) (Report of the Senate Committee on the District of Columbia on the financial responsibility law proposed for the District).

[12] See *Reitz*, *supra*, 314 U.S., at 40–43 (DOUGLAS, J., dissenting).

Under Article 3 of the Arizona Act, dealing with the posting of security for damages arising from a particular accident, the victim may cut the superintendent out by executing a release from liability or agreeing to some other written settlement or confession of judgment providing for payment of some damages, in installments or otherwise. Ariz. Rev. Stat. § 28–1143(A)(4) discussed in n. 2, *supra*. Assuming that such an agreement or confession of judgment providing for installment payments is filed with the superintendent, it prevents him from suspending driving privileges for failure to post the amount of financial security the superintendent determines to be necessary; however, if the careless driver later defaults on one installment, the victim may give notice to the superintendent, who must then use his power of suspension to either coerce full payment or the posting of security. Ariz. Rev. Stat. § 28–1144(3), discussed in n. 3, *supra*.

Under Article 4, dealing with suspension for nonpayment of a judgment, the victim who has chosen to reduce his claim to judgment maintains substantial control over the suspension of driving privileges if the judgment remains unsatisfied 60 days after entry. He may consent that the judgment debtor's driving privileges not be suspended, but the debtor still must furnish proof of financial responsibility for the future. Ariz. Rev. Stat. § 28–1162(B); for an argument that a similar provision delegating to judgment creditors the right to choose which careless drivers who do not pay judgments shall escape suspension conflicts with the Bankruptcy Act see *Kesler*, *supra*, 369 U.S., at 179–182 (Warren, C. J., dissenting). If the judgment debtor is able to secure a discretionary court order permitting him to pay a judgment in installments under § 28–1165(A), the creditor may cause suspension of driving privileges until the judgment is fully satisfied by notifying the superintendent of any default in payment of the installments. Ariz. Rev. Stat. § 28–1165(C). Again, however, the judgment debtor must still give proof of financial responsibility for the future. See Ariz. Rev. Stat. § 28–1165(B).

[13] *Kesler* also decided a jurisdictional question, holding that a Supremacy Clause challenge to a state statute was required to be heard by a three-judge district court under 28 U.S.C. § 2281. See 369 U.S., at 155–158. This jurisdictional part of the decision was overruled four years later in *Swift & Co.* v. *Wickham*, 382 U.S. 111, 116 (1965).

[14] It also seems clear that even under the logic of *Kesler* and *Reitz* Mrs. Perez should not have lost her driving privileges. She was not present when the accident occurred, and no act or omission on her part contributed to it. Because the automobile was community property under Arizona law and because judgment was confessed as to her in the Pinkerton negligence action, the Court of Appeals reasoned that loss of Mrs. Perez' license "is the price an Arizona wife must pay for negligent driving by her husband of the community vehicle" when the resulting judgment is not paid. 421 F. 2d, at 624. The *Kesler* and *Reitz* assumption that depriving uninsured motorists of the full relief afforded by a discharge in bankruptcy would prompt careful driving is without foundation when applied to Mrs. Perez. As the Court of Appeals for the Third Circuit has stated in a recent decision involving similar facts:

"Even accepting the fiction that, as applied to drivers, motor vehicle responsibility statutes are intended to promote safety, it is just too much fiction to contend that, applied to a judgment debtor held vicariously liable for the omission of a sub-agent, the statute is anything but a means for the enforcement of judgments." *Miller* v. *Anckattis*, 436 F. 2d 115, 118 (CA3 1970) (*en banc*).

[15] See S. Rep. No. 10, 74th Cong., 1st Sess. (1935); H. R. Rep. No. 208, 74th Cong., 1st Sess. (1935) (both presenting a summary of the provisions of the proposed statute dealing with "Financial Responsibility of Motor Vehicle Operators in the District of Columbia," but failing to mention the fact that a discharge in bankruptcy of an accident judgment would have no effect on suspension of driving privileges for failure to satisfy such judgment); H. R. Rep. No. 799, 74th Cong., 1st Sess. (1935) (Conference Report making no mention of anti-discharge provision); 79 Cong. Rec. 272–273 (1935) (Senate); 79 Cong. Rec. 3416–3417, 4621–4629, 4631–4641, 6556–6564 (1935) (House). Some members of the House, which debated some aspects of the financial responsibility law concept rather extensively in 1935, demonstrated in debate that they were totally unaware of any of the provisions designed to enforce payment of a judgment for injuries caused by the first accident of a financially irresponsible driver. See 79 Cong. Rec. 4624 (1935) (remarks of Congressmen Fitzpatrick and Sisson); *id.*, at 4625 (remarks of Congressman Hull).

When the present District of Columbia financial responsibility law was enacted in 1954, debate was much more limited and the reports of the House and Senate District Committees were quite brief. Except for the reading of the bill, no mention was made of the anti-discharge provision. See S. Rep. No. 515, 83d Cong., 1st Sess. (1953); H. R. Rep. No. 1448, 83d Cong., 2d Sess. (1954); 99 Cong. Rec. 8950–8951 (1953); 100 Cong. Rec. 6281–6287, 6347–6348 (1954).

[16] H. R. Rep. No. 10, 74th Cong., 1st Sess., 3 (1935); S. Rep. No. 208, 74th Cong., 1st Sess. 3 (1935); 79 Cong. Rec. 4626–4627 (1935) (remarks of Congresswoman Norton, chairman of the House District Committee). In reference to the present version of the financial responsibility act, see S. Rep. No. 515, 83d Cong., 1st Sess., 1 (1953); H. R. Rep. No. 148, 83d Cong., 2d Sess., 2 (1954); 100 Cong. Rec. 6287 (1954) (remarks of Congressman Talle); *id.*, at 6347 (remarks of Senator Beall).

[Supreme Court of the United States, No. 5175.—October Term, 1970]

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Adolfo Perez, et ux., Petitioners, *v.* David H. Campbell, Superintendent, Motor Vehicle Division, Arizona Highway Department, et al.

MR. JUSTICE BLACKMUN, joined by THE CHIEF JUSTICE, MR. JUSTICE HARLAN, and MR. JUSTICE STEWART.

I concur in the result as to petitioner Emma Perez and dissent as to petitioner Adolfo Perez.

I

The slaughter on the highways of this Nation exceeds the death toll of all our wars.[1] The country is fragmented about the current conflict in Southeast Asia, but I detect little genuine public concern about what takes place in our very midst and on our daily travel routes. See *Tate* v. *Short*, 401 U.S. ——, —— (1971).

This being so, it is a matter of deep concern to me that today the Court lightly brushes aside and overrules two cases where it had upheld a representative attempt by the States to regulate traffic and where the Court had considered and rejected the very Supremacy Clause argument that it now discovers to be so persuasive.[2]

II

I think it is desirable to stress certain factual details, The facts, of course, are only alleged, but for purposes of the motion to dismiss, we are to accept them as true. *Cooper* v. *Pate*, 378 U.S. 546 (1964).

Arizona is a community property state. Adolfo and Emma Perez are husband and wife. They were resident citizens of Arizona at the time of the accident in Tucson in July 1965. Mr. Perez was driving an automobile registered in his name. He was alone. Mrs. Perez was not with him and had nothing to do with her husband's operation of the car on that day. The automobile, however, was the property of the marital community.

Accompanying, and supposedly supportive of, the Perez complaint in the present suit, were affidavits of Mr. and Mrs. Perez. These affidavits asserted that the Perezes had four minor children ages 6 to 17; that Emma is a housewife and not otherwise gainfully employed; that Emma's inability to drive has required their two older children, aged 17 and 14, to walk one and a half miles to high school and the third child, aged 9, one mile to elementary school, with consequent nosebleeding; that Emma's inability to drive has caused inconvenience and financial injury; and that Adolfo's inability to drive has caused inconvenience because he must rely on others for transportation or use public facilities or walk.

III

The statutory plan

Arizona has a comprehensive statutory plan for the regulation of vehicles upon its highways. Ariz. Rev. Stat. Ann. Tit. 28. Among the State's efforts to assure responsibility in this area of increasing national concern are its Uniform Motor Vehicle Operators' and Chauffeurs' License Act (c. 4), its Uniform Act Regulating Traffic on Highways (c. 6), and its Uniform Motor Vehicle Safety Responsibility Act (c. 7).[3]

The challenged § 28–1163.B is a part of the Motor Vehicle Safety Responsibility Act. The Act's provisions are not unfamiliar. There is imposed upon the Motor Vehicle Division Superintendent the duty to suspend the license of each operator, and the registration of each owner, of a motor vehicle involved in an accident resulting in bodily injury or death or property damage to any one person in excess of $100, except, among other situa-

Footnotes at end of article.

tions, where proof of financial responsibility, as by the deposit of appropriate security or by the presence of a liability policy of stated minimum coverage, is afforded. §§ 28–1142, 28–1143, and 28–1167. The suspension, once imposed, remains until the required security is deposited or until one year has elapsed and no action for damages has been instituted. § 28–1144. If the registrant or operator fails, within 60 days, to satisfy an adverse motor vehicle final judgment, as defined in § 28–1102.2, the court clerk has the duty to notify the Superintendent and the latter to suspend the license and registration of the judgment debtor. §§ 28–1161.A and 28–1162.A. But if the judgment creditor consents in writing that the debtor be allowed to retain his license and registration, the Superintendent in his discretion may grant that privilege. § 28–1162.B. Otherwise the suspension remains in effect until the judgment is satisfied. § 1163.A. Payments of stated amounts are deemed to satisfy the judgment, § 28–1164, and court-approved installment payment of the judgment will preserve the license and registration, § 22–1165.

IV

Adolfo Perez

Inasmuch as the case is before us on the defendants' motion to dismiss the Perez complaint that alleged Adolfo's driving alone, the collision, and the judgment in favor of the Pinkertons, it is established, for present purposes, that the Pinkerton judgment was based on Adolfo's negligence in driving the Perez vehicle.

Adolfo emphasizes, and I recognize, that under Article 1, § 8, cl. 4 of the Constitution, Congress has possessed the power to establish "uniform Laws on the subject of Bankruptcies throughout the United States"; that, of course, this power, when exercised, as it has been since 1898, is "exclusive," *New Lamp Chimney Co.* v. *Antonia Brass and Copper Co.*, 91 U.S. 656, 661 (1875), and "unrestricted and paramount," *International Shoe Co.* v. *Pinkus*, 278 U.S. 261, 265 (1929); that one of the purposes of the Bankruptcy Act is to "relieve the honest debtor from the weight of oppressive indebtedness and to permit him to start afresh . . . ," *Williams* v. *United States Fidelity and Guaranty Co.*, 236 U.S. 549, 554–555 (1915); and that a bankrupt by his discharge receives "a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of pre-existing debt," *Local Loan Co.* v. *Hunt*, 292 U.S. 234, 244 (1934).

From these general and accepted principles it is argued that § 28–1163.B, with its insistence upon post-discharge payment as a condition for license and registration restoration, is violative of the Bankruptcy Act and, thus, of the Supremacy Clause.

As Mr. Perez acknowledges in his brief here, the argument is not new. It was raised with respect to a New York statute in *Reitz* v. *Mealey*, 314 U.S. 33 (1941), and was rejected there by a five-to-four vote:

". . . The penalty which § 94–b imposes for injury vehicles, with its consequent dangers, renders the reasonableness and necessity of regulation apparent. The universal practice is to register ownership of automobiles and to license their drivers. Any appropriate means adopted by the states to insure competence and care on the part of its licensees and to protect others using the highway is consonant with due process. . . .

* * * * *

". . . The use of the public highways by motor due to careless driving is not for the protection of the creditor merely, but to enforce a public policy that irresponsible drivers shall not, with impunity, be allowed to injure their fellows. The scheme of the legislation would be frustrated if the reckless driver were permitted to escape its provisions by the simple expedient of voluntary bankruptcy, and, accordingly, the legislature declared that a discharge in bankruptcy should not interfere with the operation of the statute. Such legislation is not in derogation of the Bankruptcy Act. Rather it is an enforcement of permissible state policy touching highway safety." 314 U.S. at 36–37.

Left specifically unanswered in that case, but acknowledged as a "serious question," 314 U.S. at 38, was the claim that interim amendments of the statutes gave the creditor control over the initiation and duration of the suspension and thus violated the Bankruptcy Act. The dissenters, speaking through MR. JUSTICE DOUGLAS, concluded that that constitutional issue "cannot be escaped . . . unless we are to overlook the realities of collection methods." 314 U.S. at 43.

Nine years ago, the same argument again was advanced, this time with respect to Utah's Motor Vehicle Safety Responsibility Act, and again was rejected. *Kesler* v. *Department of Public Safety*, 369 U.S. 153, 158–174 (1962). There, Utah's provisions relating to duration of suspension and restoration, more stringent than those of New York, were challenged. It was claimed that the statutes made the State a "collecting agent for the creditor rather than furthering an interest in highway safety," and that suspension that could be perpetual "only renders the collection pressure more effective." 369 U.S. at 169. There was a troublesome jurisdictional issue in the case, the decision as to which was later overruled, *Swift & Co.* v. *Wickham*, 382 U.S. 111, 124–129 (1965), but on the merits the Court, by a five-to-three vote, sustained all the Utah statutes then under attack: [4]

". . . But the lesson *Zavelo* [v. *Reeves*, 227 U.S. 625 (1913)] and *Spalding* [v. *New York ex. rel. Backus*, 4 How. 21 (1846)] teach us that the Bankruptcy Act does not forbid a State to attach any consequence whatsoever to a debt which has been discharged.

"The Utah Safety Responsibility Act leaves the bankrupt to some extent burdened by the discharged debt. Certainly some inroad is made on the consequences of bankruptcy if the creditor can exert pressure to recoup a discharged debt, or part of it, through the leverage of the State's licensing and registration power. But the exercise of this power is deemed vital to the State's well-being, and, from the point of view of its interests, is wholly unrelated to the considerations which propelled Congress to enact a national bankruptcy law. There are uncritically resolved by exclusive regard to the money consequences of enforcing a widely adopted measure for safeguarding life and safety.

". . . At the heart of the matter are the complicated demands of our federalism.

"Are the differences between the Utah statute and that of New York so significant as to make a constitutionally decisive difference? A State may properly decide, as forty-five have done, that the prospect of a judgment that must be paid in order to regain driving privileges serves as a substantial deterrent to unsafe driving. We held in *Reitz* that it might impose this requirement despite a discharge, in order not to exempt some drivers from appropriate protection of public safety by easy refuge in bankruptcy. . . . To whatever extent these provisions make it more probable that debt will be paid despite the discharge, each no less reflects the State's important deterrent interest. Congress had no thought of amending the Bankruptcy Act when it adopted this law for the District of Columbia; we do not believe Utah's identical statute conflicts with it either.

"Utah is not using its police power as a devious collecting agency under the pressure of organized creditors. Victims of careless car drivers are a wholly diffused group of shifting and uncertain composition, not even remotely united by a common financial interest. The Safety Responsibility Act is not an Act for the Relief of Mulcted Creditors. It is not directed to bankrupts as such. Though in a particular case a discharged bankrupt who wants to have his rightfully suspended license and registration restored may have to pay the amount of a discharged debt, or part of it, the bearing of the statute on the purposes served by bankruptcy legislation is essentially tangential." 369 U.S. at 170–174 (footnotes omitted).

MR. JUSTICE BLACK, joined by MR. JUSTICE DOUGLAS, dissented on the ground that Utah Code Ann. § 41.12.15 (1953), essentially identical to Arizona's § 28–1163.B, operated to deny the judgment debtor the federal immunity given him by § 17 of the Bankruptcy Act and, hence, violated the Supremacy Clause. 369 U.S., at 182–185.

The Perezes in their brief, p. 7, acknowledge that the Arizona statutes challenged here "are not unlike the Utah ones discussed in Kesler." Accordingly, Adolfo Perez is forced to urge that *Reitz* and the remaining portion of *Kesler* that bears upon the subject be overruled. The Court bows to that argument.

I am not prepared to overrule those two cases and to undermine their control over Adolfo Perez' posture here. I would adhere to the rulings and I would hold that the States have an appropriate and legitimate concern with highway safety; that the means Arizona has adopted with respect to one in Adolfo's position (that is, the driver whose negligence has caused harm to others and whose judgment debt based on that negligence remains unsatisfied) in its attempt to assure driving competence and care on the part of its licensees, as well as to protect others, is appropriate state legislation; and that the Arizona statute, like its Utah counterpart, despite the tangential effect upon bankruptcy, does not operate in derogation of the Bankruptcy Act or conflict with it to the extent it may rightly be said to violate the Supremacy Clause.

Other factors of significance are also to be noted:

1. The Court struggles to explain away the parallel District of Columbia situation installed by Congress itself. Section 40–464 of the D.C. Code (1967 ed.) in all pertinent parts is identical with Arizona's § 28–1163.B. The only difference is in the final word, namely, "article" in the Arizona statute and "chapter" in the District's. The District of Columbia statute was enacted as § 48 of Public Law 365 of May 25, 1954, effective one year later, 68 Stat. 120, 132. This is long after the Bankruptcy Act was placed on the books and, indeed, long after this Court's decision in *Lewis* v. *Roberts*, 267 U.S. 467 (1925), that a personal injury judgment is a provable claim in bankruptcy. Surely, as the Court noted in *Kesler*, 369 U.S., at 173–174, "Congress had no thought of amending the Bankruptcy Act when it adopted this law for the District of Columbia." See *Lee* v. *England*, 206 F. Supp. 957 (DC 1962). Congress must have regarded the two statutes as consistent and compatible, and cannot have thought otherwise for the last 35 years.[5] If the statutes truly are in tension, then I would suppose that the later one, that is, § 40–464 would be the one to prevail. *Gibson* v. *United States*, 194 U.S. 182, 192 (1904). But, if so, we then have something less than the "uniform Laws on the subject of Bankruptcies throughout the United States" that Article II, § 8, cl. 4, of the Constitution commands, for the law would be one way in Arizona (and, by the present overruling of *Reitz* and *Kesler*, in New York and in Utah) and the other way in the District of Columbia. Unfortunately, such is the dilemma in which the Court's decision today leaves us.

2. Arizona's § 28–1163.B. also has its counterparts in the statutes of no less than 44 other States.[6] It is, after all, or purports

Footnotes at end of article.

to be, a *uniform* Act. I suspect the Court's decision today will astonish those members of the Congress who were responsible for the District of Columbia Code provision, and will equally astonish the legislatures of those 44 States that absorbed assurance from *Reitz* and *Kesler* that the provision withstands constitutional attack.

3. The Court rationalizes today's decision by saying that *Kesler* went beyond *Reitz* and that the present case goes beyond *Kesler*, and that that is too much. It would justify this by noting the Arizona Supreme Court's characterization of the Arizona statute as one for the protection of the public from financial hardship and by concluding, from this description, that the statute is not a public highway safety measure, but rather a financial one protective, I assume the implication is, of insurance companies. The Arizona court's characterization of its statute, I must concede, is not a fortunate one. However, I doubt that that court, in evolving that description, had any idea of the consequences to be wrought by this Court's decision today. I am not willing to say that the description in *Schecter* v. *Killingsworth*, 93 Ariz. 273, 380 P. 2d 136 (1963), embraced the only purpose of the State's legislation. Section 28–1163.B. is a part of the State's Motor Vehicle *Safety* Responsibility Act and does not constitute an isolated subchapter of that Act concerned only with financial well-being of the victims of driver's negligence. In any event, as the Court's opinion makes clear, the decision today would be the same however the Arizona court had described its statute.

4. While *stare decisis* "is no immutable principle," [7] as a glance at the Court's decisions over the last 35 years, or over almost any period for that matter, will disclose, it seems to me that the principle does have particular validity and application in a situation such as the one confronting the Court in this case. Here is a statute concerning motor vehicle responsibility, a substantive matter peculiarly within the competence of the State rather than the National Government. Here is a serious and conscientious attempt by a State to legislate and do something about the problem that, in terms of death and bodily injury and adverse civilian effect, is so alarming. Here is a statute widely adopted by the several States and legitimately assumed by the lawmakers of those States to be consistent with the Bankruptcy Act, an assumption rooted in positive, albeit divided, decision by this Court, not once, but twice. And here is a statute the Congress itself, the very author of the Bankruptcy Act, obviously considered consistent therewith. I fear that the Court today makes *stare decisis* meaningless and downgrades it to the level of a tool to be used or cast aside as convenience dictates. I doubt if Justices Roberts, Stone, Reed, Frankfurter, Murphy, Warren, Clark, HARLAN, BRENNAN, and STEWART, who constituted the respective majorities on the merits in *Reitz* and *Kesler*, were all that wrong.

5. Adolfo's affidavit protestation of hardship goes no further than to assert a resulting reliance upon friends and neighbors or upon public transportation or upon walking to cover the seven miles from his home to his place of work; this is inconvenience, perhaps, even in this modern day when we are inclined to equate convenience with necessity and to eschew what prior generations routinely accepted as part of the day's labor, but it falls far short of the "great harm" and "irreparable injury" which he otherwise asserts only in general and conclusory terms. Perez' professed inconvenience stands vividly and starkly in contrast with his victims' injuries. But as is so often the case, the victim, once damaged, is seemingly beyond concern. What seems to become important is the perpetrator's inconvenience.

6. It is conceded that Arizona constitutionally could prescribe liability insurance as a condition precedent to the issuance of a license and registration.

V

Emma Perez

Emma Perez' posture is entirely different. Except for possible emotional strain resulting from her husband's predicament, she was in no way involved in the Pinkerton accident. She was not present when it occurred and no negligence or nonfeasance on her part contributed to it. Emma thus finds herself in a position where, having done no wrong, she nevertheless is deprived of her operator's license. This comes about because the Perez vehicle concededly was community property under § 25–211.A, and because, for some reason, the judgment was confessed as to her as well as against her husband. As one *amicus* brief describes it, Emma, a fault-free driver, "is without her license solely because she is the impecunious wife of an impecunious, negligent driver in a community property state."

At this point a glance at the Arizona community property system perhaps is indicated. Emma Perez was a proper nominal defendant in the Pinkerton lawsuit, see *Donato* v. *Fishburn*, 90 Ariz. 210, 367 P. 2d 245 (1961), but she was not a necessary party there. *First National Bank* v. *Reeves*, 27 Ariz. 508, 517, 234 P. 556, 560 (1925); *Bristol* v. *Moser*, 55 Ariz. 185, 190–191, 99 P. 2d 706, 709 (1940). However, a judgment against a marital community based upon the husband's tort committed without the wife's knowledge or consent does not bind her separate property. *Ruth* v. *Rhodes*, 66 Ariz. 129, 138, 185 P. 2d 304, 310 (1947). The judgment would, of course, bind the community property vehicle to the extent permitted by Arizona law. See § 33–1124.

In Arizona during coverture personal property may be disposed of only by the husband. § 25–211.B. The community personalty is subject to the husband's dominance in management and control. *Mortensen* v. *Knight*, 81 Ariz. 325, 334, 305 P. 2d 463, 469 (1957). The wife has no power to make contracts binding the common property. § 25–214.A. Her power to contract is limited to necessaries for herself and the children. § 25–215. Thus, as the parties appear to agree, she could neither enter into a contract for the purchase of an automobile nor acquire insurance upon it except by use of her separate property.

The Court of Appeals ruled that Mrs. Perez' posture, as the innocent wife who had no connection with the negligent conduct that led to the confession and entry of judgment, was, under the logic of *Kesler* and *Reitz*, "a distinction without a significant difference" even though "she had no alternative." 421 F. 2d at 622–623. The court opined that the spouse can acquire an automobile with her separate funds and that negligent operation of it on separate business would then not call into question the liability of the other spouse. It described Emma's legal status as "closely analogous" to that of the automobile owner who permits another person to drive, and it regarded as authority cases upholding a State's right to revoke the owner's license and registration after judgment had been entered against him and remains unsatisfied. The husband was described, under Arizona law, as the managing agent of the wife in the control of the community automobile, and "the driver's licenses of both husband and wife are an integral part of the ball of wax, which is the basis of the Arizona community property laws." The loss of her license "is the price an Arizona wife must pay for negligent driving by her husband of the community vehicle" when the resulting judgment is not paid. 421 F. 2d at 624.

For what it is worth, Emma's affidavit is far more persuasive of hardship than Adolfo's. She relates the family automobile to the children and their medical needs and to family purchasing at distant discount stores. But I need not, and would not, decide her case on the representations in her affidavit.

I conclude that the reasoning of the Court of Appeals, in its application to Emma Perez and her operator's license, does not comfort with the purpose and policy of the Bankruptcy Act and that it effects a result at odds with the Supremacy Clause. Emma's subordinate position with respect to the community's personal property, and her complete lack of connection with the Pinkerton accident and with the negligence that occasioned it, are strange accompaniments for the deprival of her operator's license. The nexus to the state police power, claimed to exist because of her marriage to the negligent Adolfo and the community property character of the accident vehicle, is, for me, elusive and unconvincing. The argument based on Arizona's appropriate concern with highway safety, that prompts me to adhere to the *Reitz-Kesler* rationale for Adolfo, is drained of all force and persuasion when applied to the innocent Emma. Despite the underlying community property legal theory, Emma had an incident of ownership in the family automobile only because it was acquired during coverture. She had no "control" over Adolfo's use of the vehicle and she could not forbid his use as she might have been able to do were it her separate property. Thus, the state purpose in deterring the reckless driver and his unsafe driving has only undeserved punitive application to Emma. She is personally penalized not only with respect to the operation of the Perez car but with respect to any automobile.

I therefore would hold that under these circumstances the State's action, under § 28–1163.B, in withholding from Emma her operator's license is not, within the language of *Reitz*, an appropriate means for Arizona "to insure competence and care on the part of [Emma] and to protect others" using the highways, 314 U.S., at 36, and that it interferes with the paramount federal interest in her bankruptcy discharge and violates the Supremacy Clause.

FOOTNOTES

[1] See Appendix to this opinion p. 17.

[2] The petitioners urge upon us only the Supremacy Clause.

[3] In 1943 some of the motor vehicle uniform laws were "withdrawn from active promulgation pending further study" by the National Conference of Commissioners on Uniform State Laws. 9B U. L. A. Table III, xix, xxii, xxiii. See Mr. Justice Frankfurter's detailed review of the development of state legislation and of the uniform laws in this field in *Kesler* v. *Department of Public Safety*, 369 U.S. 153, 158–168 (1962).

[4] Mr. Chief Justice Warren, dissenting in part, would have upheld the Utah statutes other than that "which gives to a creditor the discretion of determining if and when driving privileges may be restored by the State . . . ." 369 U.S., at 179–182.

[5] Public Law 365 replaced the Act of May 3, 1935, 49 Stat. 166, known as the Owners' Financial Responsibility Act of the District of Columbia. Section 3 of the earlier Act provided, 49 Stat. 167, that a judgment's discharge in bankruptcy, as distinguished from other discharge, would not relieve the judgment debtor from suspension.

[6] Ala. Code Tit. 36, § 74(55) (1959); Alaska Stat. § 28.20.350 (1962); Ark. Stat. Ann. § 75–1457); Cal. Vehicle Code § 16372 (West 1960); Colo. Rev. Stat. Ann. § 13–7–5(2) (1964); Conn. Gen. Stat. Rev. § 14–131 (1966); Del. Code Ann. Tit. 21, § 2943 (1953); Hawaii Rev. Stats. § 287–17 (1968); Idaho Code § 49–1514 (1967); Ill. Ann. Stat. c. 95 1/2, § 7A–310 (1970 Supp.); Iowa Code Ann. § 321A.14(2) (1960); Kan. Stat. Ann. § 8–744(b) (1964); Ky. Rev. Stat. Ann. § 187.420 (1963); La. Rev. Stat. Ann. § 32:893 (West 1963); Me. Rev.

Stat. Ann. Tit. 29, § 783 (1965) (10 years); Md. Ann. Code Art. 66 1/2, § 119(1)(e) (1967); Mich. Stat. Ann. § 9.2213(b) (1968); Minn. Stat. Ann. § 170.33 subd. 5 (Supp. 1971); Miss. Code Ann. § 8285–14 (1957); Mo. Ann. Stat. § 303.110 (1963); Mont. Rev. Codes Ann. § 53–431 (1961); Neb. Rev. Stat. § 60–519 (1968); Nev. Rev. Stat. § 485.303 (1968); N.H. Rev. Stat. Ann. § 268:9 (1966); N.J. Stat. Ann. § 39:6–35 (Supp. 1970); N.M. Stat. Ann. § 64–24–78 (1960); N.Y. Veh. & Traf. Law § 337(c) (McKinney 1970); N.C. Gen. Stat. § 20–279.14 (Supp. 1969); N.D. Cent. Code § 39–16.1–04.5 (1969 Supp.); Ohio Rev. Code Ann. § 4509.43 (1970 Supp.); Okla. Stat. Ann. Tit. 47, § 7–315 (1962); Pa. Stat. Ann. Tit. 75, § 1414 (1960); R.I. Gen. Laws Ann. § 31–32–15 (1969); S.C. Code Ann. § 46–748 (Supp. 1960); S.D. Comp. Laws Ann. § 32–35–58 (1967); Tenn. Code Ann. § 59–1236 (1968); Tex. Rev. Civ. Stat. Ann. Art. 6701h, § 14(b) (1960); Utah Code Ann. § 41–12–15 (1953); Vt. Stat. Ann. Tit. 23, § 802(b) (1967); Va. Code Ann. § 46.1–444(a)(4) (Supp. 1970) (15 years); Wash. Rev. Code Ann. § 46.29.380 (1967); W. Va. Code Ann. § 17D–4–6 (1966); Wis. Stat. Ann. § 344.26(2) (1958) [cf. *Zywicke* v. *Brogli*, 130 N.W. 2d 180, 24 Wis. 2d 685 (1964)]; Wyo. Stat. Ann. § 31–299 (1967).

See also Fla. Stat. Ann. § 324.131 (1968) and Op. Atty. Gen. 059–200 (1959); Ga. Code Ann. § 92A–605(e)(3) (Supp. 1970); Ind. Stat. Ann. § 47–1049 (1965) and Op. Atty. Gen. 1936, p. 272; Mass. Gen. Laws Ann. c. 90, § 22A (1969); Oreg. Rev. Stats. § 486.211 (5) (1968).

[7] MR. JUSTICE DOUGLAS, dissenting, in *Swift & Co.* v. *Wickham*, 382 U.S. at 133.

APPENDIX

MOTOR VEHICLE DEATHS AND WAR DEATHS

[U.S. military casualties in principal wars]

War	Deaths			Nonfatal wounds
	Total	Battle	Others [1]	
Total	[2] 1,146,000	643,052	[2] 503,200	[2] 1,540,000
Revolutionary War (1775–83)	4,435	4,435	(4)	6,188
War of 1812 (1812–15)	2,260	2,260	(4)	4,505
Mexican War (1846–48)	13,283	1,733	11,550	4,152
Civil War (1861–65):				
Union Forces	364,511	140,414	224,097	281,881
Confederate Forces	133,821	74,524	59,297	(4)
Spanish-American War (1898)	2,446	385	2,061	1,662
World War I (1917–18)	116,708	53,513	63,195	204,002
World War II (1941–45)	407,316	292,131	115,185	670,846
Korean War (1950–53)	54,246	33,629	20,617	103,284
Vietnam War (1961–69)	47,251	40,028	7,223	262,799

[1] Includes deaths from disease, accidents, etc.
[2] Rounded.
[3] Incomplete and rounded.
[4] Not available.

Source: Office of Secretary of Defense.

NOTES

From 1900 through 1969, motor vehicle deaths in the United States totaled nearly 1,800,000. Deaths of U.S. military personnel in all wars are shown below. In making comparisons, it must be kept in mind that nearly everyone is exposed to motor vehicle accidents but relatively few are exposed to war deaths.

Accident Facts (1970 ed.), p. 63, published by the National Safety Council.

The same publication, page 59, discloses that the annual death toll for motor vehicle accidents in the United States has exceeded 52,000 in each of the last 5 calendar years. Thus, the annual motor vehicle carnage approximates the total number of lives lost during the entire Vietnam conflict beginning in 1961.

[Supreme Court of the United States]

BELL VERSUS BURSON, DIRECTOR, GEORGIA DEPARTMENT OF PUBLIC SAFETY

CERTIORARI TO THE COURT OF APPEALS OF GEORGIA

(No. 5586. Argued March 23, 1971—Decided May 24, 1971)

Georgia's Motor Vehicle Safety Responsibility Act, which provides that the motor vehicle registration and driver's license of an uninsured motorist involved in an accident shall be suspended unless he posts security for the amount of damages claimed by an aggrieved party and which excludes any consideration of fault or responsibility for the accident at a pre-suspension hearing *held* violative of procedural due process. Before Georgia, whose statutory scheme significantly involves the issue of liability, may deprive an individual of his license and registration, it must provide a procedure for determining the question whether there is a reasonable possibility of a judgment being rendered against him as a result of the accident. Pp. 4–9.

121 Ga. App. 418, 174 S. E. 2d 235, reversed and remanded.

Brennan, J., delivered the opinion of the Court, in which Douglas, Harlan, Stewart, White, and Marshall, JJ., joined. Burger, C. J., and Black and Blackmun, J.J., concurred in the result.

[Supreme Court of the United States, No. 5586—October Term, 1970]

Paul J. Bell, Jr., Petitioner, versus R. H. Burson, Director, Georgia Department of Public Safety.

On Writ of Certiorari to the Court of Appeals of Georgia, May 24, 1971.

Mr. Justice Brennan delivered the opinion of the Court.

Georgia's Motor Vehicle Safety Responsibility Act provides that the motor vehicle registration and driver's license of an uninsured motorist involved in an accident shall be suspended unless he posts security to cover the amount of damages by aggrieved parties in reports of the accident.[1] The administrative hearing conducted prior to the suspension excludes consideration of the motorist's fault or liability for the accident.

Petitioner is a clergyman whose ministry requires him to travel by car to cover three rural Georgian communities. On Sunday afternoon, November 24, 1968, petitioner was involved in an accident when five-year-old Sherry Capes rode her bicycle into the side of his automobile. The child's parents filed an accident report with the Director of the Georgia Department of Public Safety indicating that their daughter had suffered substantial injuries for which they claimed damages of $5,000. Petitioner was thereafter informed by the Director that unless he was covered by a liability insurance policy in effect at the time of the accident he must file a bond or cash security deposit of $5,000 or present a notorized release from liability, plus proof of future financial responsibility,[2] or suffer the suspension of his driver's license and vehicle registration. App., at 9. Petitioner requested an administrative hearing before the Director asserting that he was not liable as the accident was unavoidable, and stating also that he would be severely handicapped in the performance of his ministerial duties by a suspension of his licenses. A hearing was scheduled but the Director informed petitioner that "[t]he only evidence that the Department can accept

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[1] Motor Vehicle Safety Responsibility Act, Ga. Code Ann. §§ 92A–601 *et seq.* (1958). In pertinent part the Act provides that anyone involved in an accident must submit a report to the Director of Public Safety. Ga. Code Ann. § 92A–604 (Supp. 1970). Within 30 days of the receipt of the report the Director "shall suspend the license and all registration certificates and all registration plates of the operator and owner of any motor vehicle in any manner involved in the accident unless or until the operator or owner has previously furnished or immediately furnishes, sufficient . . . to satisfy any judgments for damages or injuries resulting . . . and unless such operator or owner shall give proof of financial responsibility for the future as is required in section 92A–615.1. . . ." Ga. Code Ann. § 92A–605(a) (Supp. 1970). Section 92A–615.1 (Supp. 1970) requires that "such proof must be maintained for a one year period." Section 92A–605(a) works no suspension, however, (1) if the owner or operator had in effect at the time of the accident a liability insurance policy or other bond, Ga. Code Ann. § 92A–605(c) (Supp. 1970); (2) if the owner or operator qualifies as a self-insurer, *ibid.*; (3) if only the owner or operator was injured, Ga. Code Ann. § 92A–606 (1958); (4) if the automobile was legally parked at the time of the accident, *ibid.*; (5) if as to an owner, the automobile was being operated without permission, *ibid.*; or (6) "[i]f, prior to the date that the Director would otherwise suspend license and registration . . . there shall be filed with the Director evidence satisfactory to him that the person who would otherwise have to file security has been released from liability or been finally adjudicated not to be liable or has exercised a duly acknowledged written agreement providing for the payment of an agreed amount in installments. . . ." *Ibid.*

The Georgia Court of Appeals rejected petitioner's contention that the State's statutory scheme, in failing before suspending the licenses to afford him a hearing on the question of his fault or liability, denied due process in violation of the Fourteenth Amendment; the court held that " 'Fault' or 'innocence' are completely irrelevant factors." 120 Ga. App. 418, 420, 174 S.E. 2d 235, 236 (1970). The Georgia Supreme Court denied review. App., at 27. We granted certiorari. 400 U. S. 963 (1970). We reverse.

[2] Questions concerning the requirement of proof of future financial responsibility are not before us. The State's brief, at 4, states: "The one year period for proof of financial responsibility has now expired so [petitioner] would not be required to file such proof, even if the Court of Appeals decision were affirmed."

and consider is: (a) was the petitioner or his vehicle involved in the accident; (b) has petitioner complied with the provisions of the Law as provided; or (c) does petitioner come within any of the exceptions of the Law." App., at 11.[3] At the administrative hearing the Director rejected petitioner's proffer of evidence on liability, ascertained that petitioner was not within any of the statutory exceptions, and gave petitioner 30 days to comply with the security requirements or suffer suspension. Petitioner then exercised his statutory right to an appeal *de novo* in the Superior Court. Ga. Code Ann. § 92A–602 (1958). At that hearing, the court permitted petitioner to present his evidence on liability, and, although the claimants were neither parties nor witnesses, found petitioner free from fault. As a result, the Superior Court ordered "that the petitioner's driver's license not be suspended . . . [until] suit is filed against petitioner for the purpose of recovering damages for the injuries sustained by the child . . ." App., at 15. This order was reversed by the Georgia Court of Appeals in overruling petitioner's constitutional contention.

If the statute barred the issuance of licenses to all motorists who did not carry liability insurance or who did not post security, the statute would not, under our cases, violate the Fourteenth Amendment. *Ex Parte Poresky*, 290 U.S. 30 (1933); *Continental Baking Co.* v. *Woodring*, 286 U.S. 352 (1932); *Hess* v. *Pawloski*, 274 U.S. 352 (1927). It does not follow, however, that the Amendment also permits the Georgia statutory scheme merely because not all motorists, but rather only motorists involved in accidents, are required to post security under penalty of loss of the licenses. See *Shapiro* v. *Thompson*, 394 U.S. 618 (1969); *Frost & Frost Trucking Co.* v. *Railroad Commission*, 271 U.S. 583 (1926). Once licenses are issued, as in petitioner's case, their continued possession may become essential in the pursuit of a livelihood. Suspension of issued licenses thus involves state action that adjudicates important interests of the licensees. In such cases the licenses are not to be taken away without that procedural due process required by the Fourteenth Amendment. *Sniadach* v. *Family Finance Corp.*, 395 U.S. 337 (1969); *Goldberg* v. *Kelly*, 397 U.S. 254 (1970). This is but an application of the general proposition that relevant constitutional restraints limit state power to terminate an entitlement whether the entitlement is denominated a "right" or a "privilege." *Sherbert* v. *Verner*, 374 U.S. 398 (1963) (disqualification for unemployment compensation); *Slochower* v. *Board of Higher Education*, 350 U.S. 551 (1956) (discharge from public employment); *Speiser* v. *Randall*, 357 U.S. 513 (1958) (denial of a tax exemption); *Goldberg* v. *Kelly*, *supra* (withdrawal of welfare benefits). See also *Londoner* v. *Denver*, 210 U.S. 373, 385–386 (1908); *Goldsmith* v. *Board of Tax Appeals*, 270 U.S. 117 (1926); *Opp Cotton Mills* v. *Administrator*, 312 U.S. 126 (1941).

We turn then to the nature of the procedural due process which must be afforded the licensee on the question of his fault or liability for the accident.[4] A procedural rule that may satisfy due process in one context may not necessarily satisfy procedural due process in every case. Thus, procedures adequate to determine a welfare claim may not suffice to try a felony charge. Compare *Goldberg* v. *Kelly*, 397 U.S., at 270–271, with *Gideon* v. *Wainwright*, 372 U.S. 335 (1963). Clearly, however, the inquiry into fault or liability requisite to afford the licensee due process need not take the form of a full adjudication of the question of liability. That adjudication can only be made in litigation between the parties involved in the accident. Since the only purpose of the provisions before us is to obtain security from which to pay any judgments against the licensee resulting from the accident, we hold that procedural due process will be satisfied by an inquiry limited to the determination whether there is a reasonable possibility of judgments in the amounts claimed being rendered against the licensee.

The State argues that the licensee's interest in avoiding the suspension of his licenses is outweighed by countervailing governmental interests and therefore that this procedural due process need not be afforded him. We disagree. In cases where there is no reasonable possibility of a judgment being rendered against a licensee, Georgia's interest in protecting a claimant from the possibility of an unrecoverable judgment is not, within the context of the State's fault-oriented scheme, a justification for denying the process due its citizens. Nor is additional expense occasioned by the expanded hearing sufficient to withstand the constitutional requirement. "While the problem of additional expense must be kept in mind, it does not justify denying a hearing meeting the ordinary standards of due process." *Goldberg* v. *Kelly*, 397 U.S., at 261, quoting *Kelly* v. *Wyman*, 294 F. Supp. 893, 901 (SDNY 1968)

The main thrust of Georgia's argument is that it need not provide a hearing on liability because fault and liability are irrelevant to the statutory scheme. We may assume that were this so, the prior administrative hearing presently provided by the State would be "appropriate to the nature of the case." *Mullane* v. *Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950). But "[i]n reviewing state action in this area . . . we look to substance, not to bare form, to determine whether constitutional minimums have been honored." *Willner* v. *Committee on Character*, 373 U.S. 96, 106–107 (1963) (concurring opinion). And looking to the operation of the State's statutory scheme, it is clear that liability, in the sense of an ultimate judicial determination of responsibility, plays a crucial role in the Safety Responsibility Act. If prior to suspension there is a release from liability executed by the injured party, no suspension is worked by the Act. Ga. Code Ann. § 92A–606 (1958). The same is true if prior to suspension there is an adjudication of nonliability. *Ibid.* Even after suspension has been declared, a release from liability or an adjudication of nonliability will lift the suspension. Ga. Code Ann. § 92A–607 (Supp. 1970). Moreover, other of the Act's exceptions are developed around liability related concepts. Thus, we are not dealing here with a no-fault scheme. Since the statutory scheme makes liability an important factor in the State's determination to deprive an individual of his licenses, the State may not, consistently with due process, eliminate consideration of that factor in its prior hearing.

The hearing required by the Due Process Clause must be "meaningful," *Armstrong* v. *Manzo*, 380 U.S. 545, 552 (1965), and "appropriate to the nature of the case." *Mullane* v. *Central Hanover Bank & Trust Co.*, *supra*. It is a proposition which hardly seems to need explication that a hearing which excludes consideration of an element essential to the decision whether licenses of the nature here involved shall be suspended does not meet this standard.

Finally, we reject Georgia's argument that if it must afford the licensee an inquiry into the question of liability, that determination, unlike the determination of the matters presently considered at the administrative hearing, need not be made prior to the suspension of the licenses. While "many controversies have raged about . . . the Due Process Clause," *Mullane* v. *Central Hanover Bank & Trust Co.*, 339 U.S., at 313, it is fundamental that except in emergency situations (and this is not one) [5] due process requires that when a State seeks to terminate an interest such as that here involved, it must afford "notice and opportunity for hearing appropriate to the nature of the case" *before* the termination becomes effective. *Ibid. Opp Cotton Mills, Inc.* v. *Administrator*, 312 U.S., at 152–156 (1941); *Sniadach* v. *Family Finance Corp.*, *supra*; *Goldberg* v. *Kelly*, *supra*; *Wisconsin* v. *Constantineau*, 400 U.S. 433 (1971).

We hold, then, that under Georgia's present statutory scheme, before the State may deprive petitioner of his driver's license and vehicle registration it must provide a forum for the determination of the question whether there is a reasonable possibility of a judgment being rendered against him as a result of the accident. We deem it inappropriate in this case to do more than lay down this requirement. The alternative methods of compliance are several. Georgia may decide merely to include consideration of the question at the administrative hearing now provided, or it may elect to postpone such a consideration to the *de novo* judicial proceedings in the Superior Court. Georgia may decide to withhold suspension until adjudication of an action for damages brought by the injured party. Indeed, Georgia may elect to abandon its present scheme completely and pursue one of the various alternatives in force in other States.[6] Finally, Georgia may reject all of the above and devise an entirely new regulatory scheme. The area of choice is wide: we hold only that the failure of the present Georgia scheme to afford the petitioner a prior hearing on liability of the nature we have defined denied him procedural due process in violation of the Fourteenth Amendment.

The judgment is reversed and the case is remanded for further proceedings not inconsistent with this opinion.

It is so ordered.

The Chief Justice, Mr. Justice Black, and Mr. Justice Blackmun concur in the result.

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[3] Ga. Code Ann. § 92A–602 (1958) provides: "The Director shall administer and enforce the provisions of this Chapter and may make rules and regulations necessary for its administration and shall provide for hearings upon request of persons aggrieved by orders or acts of the Director under the provisions of this Chapter. Such hearing need not be a matter of record and the decision as rendered by the Director shall be final unless the aggrieved person shall desire an appeal, in which case he shall have the right to enter an appeal to the superior court of the county of his residence, by notice to the Director, in the same manner as appeals are entered from the court of ordinary, except that the appellant shall not be required to post any bond nor pay the costs in advance. If the aggrieved person desires, the appeal may be heard by the judge at term or in chambers or before a jury at the first term. The hearing on the appeal shall be de novo, however, such appeal shall not act as a supersedeas of any orders or acts of the Director, nor shall the appellant be allowed to operate or permit a motor vehicle to be operated in violation of any suspension or revocation by the Director, while such appeal is pending. A notice sent by registered mail shall be sufficient service on the Director that such appeal has been entered."

[4] Petitioners stated at oral argument that while "it would be possible to raise [an equal protection argument] . . . we don't raise this point here." Tr. of Oral Arg., at 14.

[5] See *e.g.*, *Fahey* v. *Mallonee*, 332 U.S. 245 (1947); *Ewing* v. *Mytinger & Casselberry, Inc.*, 339 U.S. 594 (1950).

[6] The various alternatives include compulsory insurance plans, public or joint public-private unsatisfied judgment funds, and assigned claims plans. See R. Keeton & J. O'Connell, After Cars Crash (1967).

[From the Boston Sunday Globe, June 6, 1971]

NO-FAULT INSURANCE WORKS, BUT THERE ARE PROBLEMS

(By Robert B. Hanron)

No-fault auto insurance, a new approach to an old problem, has been in effect in Massachusetts for a little more than five months.

Statistics for the first quarter of this year show the system is working even better than anticipated.

They indicate, according to Gov. Sargent, that the frequency of bodily injury claims in the commonwealth has dropped a startling 60 percent.

The average paid claim under no-fault has decreased by 36 percent.

Sargent has said publicly that if this trend continues for the balance of the year, the state's 2.4 million motor vehicle owners are in for at least a 25 per cent reduction in bodily injury insurance rates next year.

The governor's evaluation of how the no-fault system is working is supported by others considered knowledgeable in the casualty field.

These include:

State Insurance Comr. C. Eugene Farnam and Prof. Robert E. Keeton of Harvard Law School, co-authors of the original basic protection, Keeton-O'Connell plan; and Rep. Edward J. Dever (D-Arlington), House chairman of the Legislative Committee on Insurance.

Joseph P. Hegarty, New England manager of the American Mutual Insurance Alliance, said no-fault has "all the appearances of working well."

He emphasized, however, that it is still too early to draw any conclusions from the present limited experience to even guess how much personal injury rates can be lowered next year.

There are still a number of unanswered questions about no-fault:

Is it the solution to the 44-year-old problem of compulsory auto insurance?

Does it repay accident victims for losses promptly and with equity?

Will it provide adequate insurance protection at lower rates in the future?

The answers to these questions depend on whom you ask.

Trial lawyers, whose business it is to handle such claims, are vigorously opposed to the concept of no-fault insurance.

Richard M. Markus, president of the American Trial Lawyers Assn., representing some 25,000 members, told a congressional committee in Washington:

"The no-fault fiasco has been foisted on the public by a misleading multimillion dollar public relations campaign and there is not and has not been any public groundswell for no-fault schemes."

He said the national no-fault bills now before Congress would "strike hardest at the poor on welfare, the temporarily unemployed, the student, and the housewife."

Markus said "these worthy human beings would receive no compensation whatever for their lost earning capacity; the bills would undermine the rights of a union member whose hard-fought fringe benefits will be pirated to reduce the cost for the insurer."

He said the Nixon Administration's position asks "us all to compromise with injustice.

"We see no reason to retreat instead of reform . . . we oppose no-guilt insurance that trades your rights for someone else's wrongs . . . with no-fault insurance, you pay more and get less—less equity, less justice, less reparation for pain, suffering and economic loss. Only the guilty will get their money's worth."

Markus asked: "Does it matter who is at fault?" and then answered, "You bet it does."

No-fault insurance, originally brought forth eight years ago, is designed to ignore the concept of guilt in an auto accident and to repay accident victims for medical expenses and out-of-pocket losses such as wages, regardless of negligence.

Despite the continued and vigorous opposition of the trial lawyers, proponents of the no-fault system not only claim it is working well, but predict it can and will work even better.

They say it will bring prompt reimbursement for accident losses at reduced rates in the future and that it should be extended even further to include property damage.

Massachusetts is thus far the only state in the nation to have a no-fault system.

But the experience here, as well as in Puerto Rico, where the system has been in effect for nearly a year and a half, shows that it is producing as predicted.

Lawyers in Puerto Rico, as well as in Massachusetts, are concerned with lost income from tort cases, and some insurance company personnel—particularly adjusters who traditionally have negotiated damage settlements—are worried about their jobs.

Since payments for injuries are made by one's own company (up to $2000) under no-fault in Massachusetts, this in many cases eliminates the need for the adjusters who were used under the old compulsory fault system.

This, of course, will lower administrative costs for companies and should be reflected in future lower rates.

One of the questions frequently asked by the motoring public is "will my total auto insurance premium be lowered by no-fault?"

Hegarty, a spokesman for one segment of the casualty industry, says "the impression that there was to be a 15 percent rate reduction in one's overall or total insurance bill was created by you-know-whom."

Though he did not say so, he was referring to statements made by Sargent and others in the heat of last year's state election campaigns.

Some promises were made after the Legislature tacked on an amendment to the no-fault bill which extended the 15 percent rate reduction to these other property damage, collision, fire and theft.

But this extension of a reduction to these other coverages, which was opposed by the companies, was declared unconstitutional by the state's Supreme Judicial Court.

No-fault insurance in Massachusetts pays only for medical and hospital expenses and other out-of-pocket losses due to personal injury.

It does not include damage to vehicles or to other property, theft of cars, fire, vandalism, etc.

Rep. Dever points out that the amount paid for personal injury coverage is only 1-5th of the total cost of auto insurance.

In 1970, under the old compulsory law, the so-called 'good driver' (over 25, commutes less than 10 miles to work) paid $117 for his basic bodily injury coverage of $5000 per person and $10,000 per accident.

With the guaranteed 15 percent reduction in effect under no-fault, this year he is paying $99.45.

If the predicted rate reduction for 1972 is realized, the motorist will save an additional $25 on this coverage next year.

On the other hand, his rates for property damage and for collision—not affected by no-fault—have gone up. In 1970, under a Supreme Court order, collision rates were boosted 26.9 percent.

Property damage rates went up the first of this year by 34.8 percent.

With the increasing cost of automotive parts, administrative expenses and labor, no official, either public or private, holds out the slightest hope for a rate reduction in these categories next year.

And they predict, with good reason, that rates on property and collision coverages may go up again in January.

The cost for automotive repair parts has jumped 40 percent since 1968. In the same period, labor costs for repairs have gone up $2 an hour.

And the expense for thefts from and of motor vehicles has jumped at a staggering rate.

Latest figures released by the FBI show Massachusetts with the highest stolen car rate in the nation. In 1969, for example, 859.8 cars per 100,000 population were stolen in the commonwealth, compared to the national average of 431.8.

What can the public expect in the way of auto insurance costs next year?

The answer, according to a consensus of public and private officials involved, is:

Rates for personal injury will probably go down 25 percent (the governor has said so and he is the boss), but property and collision rates will probably go up.

In other words, the cost for one's total auto insurance bill next year will probably increase despite the reduction in personal injury protection rates.

The Supreme Judicial Court is expected to rule at any time on a test case challenging the constitutionality of the no-fault bill.

Even if the ruling is favorable, as many anticipate, there is still a lot to be done to improve the law.

Sargent, Keeton, Dever and others emphasize that no-fault must be extended to include property damage. All have said so publicly and several bills to this effect are now pending in the Special Commission on Insurance.

The 49 other states, as well as Congress, are watching closely the no-fault experience in Massachusetts.

Most will probably do nothing until the Supreme Court here makes its ruling on the measure.

Expectations are that Congress will write national guidelines on no-fault auto insurance and allow the individual states 2 or 3 years to comply with them.

Keeton hopes the state will act promptly on such guidelines in order to keep auto insurance in the private sector.

"The longer action is delayed on this nationally," he says, "the more likely it is that public money will be involved."

Officials, both public and private, believe national health insurance is also likely in the not too distant future.

They anticipate that at least the personal injury portion of auto insurance will be taken over by health insurance.

Under the Massachusetts law, Sargent and others contend that motorists can obtain greater savings on auto insurance through the use of deductibles on personal injury and property damage coverages.

Owners can obtain an additional 30 percent premium reduction by opting for a $2000 deductible on personal injury coverage. They can also get a 40 percent reduction by taking a $200 deductible on property damage.

Industry officials and others, however, urge motorists to use caution in taking such deductibles.

They point out that a motorist could save a few dollars on bodily injury insurance rates by taking the $2000 deductible, but they warn that this leaves each person in the car injured in an accident without $2000 of protection.

Dever advises, as do most companies, that only those with a good wage continuation plan and a good health and hospital plan should take personal injury deductibles.

As for a property damage deductible, he says that "anyone who takes one is nuts."

The governor, legislators, state insurance officials, the companies and even the trial lawyers, all advocate additional changes to lower insurance costs.

These include improved highways, stricter law enforcement and penalties, and uniform bumpers able to withstand crashes with less chance of injury and damage to vehicle.

The companies emphatically deny that

they are deliberately delaying payments on property damage claims and Farnam says he has no proof that such a practice is going on.

Farnam, summing up the situation on no-fault insurance says:

"While the motorist's overall insurance premium is up this year, the important thing is not to compare it with what it was in 1970, but rather what it would have been in 1971 if no-fault insurance had not been passed."

He says property and collision rates would have gone up anyway. Bodily injury coverage, on the other hand, would have increased by more than 20 percent instead of going down 15 percent.

One legislator said: "Maybe none of us will know how good no-fault is until we have an accident."

A SUPREME DECISION

Insurers, for the most part, agree that present laws regarding the punishment of habitual traffic offenders are inadequate and often totally ineffective. They say, and we concur, that the driver who repeatedly ignores the rules of traffic safety, whether because of carelessness or complete disregard of the rights of others, should be taken off the road for good. Without a doubt, forcing good drivers to travel the same highways as those who look upon traffic laws as something to be challenged rather than respected is unfair.

But it's equally unfair to punish a driver for being involved in an accident which was not his fault. And insurers, some of them anyway, don't seem to agree with that.

Most states don't have compulsory insurance laws. Therefore, to force drivers to purchase coverage, the states have been making use of special provisions in the financial responsibility laws which provide that an uninsured motorist who is involved in an accident loses his license and auto registration until he can post a bond covering any injuries. But here's the clincher: no consideration is given to whether the driver was in any way at fault.

In a recent decision, the Supreme Court declared those sections of the laws unconstitutional. The court said that before an uninsured motorist's license can be revoked he must be given a hearing, at which there must be proof of "a reasonable possibility" that a court would hold him liable for damages.

Immediately following that decision, a prominent spokesman for a large insurance association said that the ruling appeared to "take the teeth out of the present financial responsibility laws." Some motorists might decide not to purchase insurance on the chance that any accident that might occur would not be their fault, he said.

But that spokesman, we're afraid, is basing his assumption on a false premise. If a man decides not to buy insurance it's because he doesn't believe he'll *ever* become involved in an accident. Therefore, holding the license revocation rule over his head will probably not impress him in the least.

The laws weren't succeeding in forcing drivers to purchase insurance. All they were doing was punishing all those involved in accidents, faultless or not. And that indeed is unconstitutional.

Insurers should be concerned about the uninsured motorist problem, no doubt about it. But the way to solve the problem is by implementing and enforcing compulsory insurance laws. If that's what insurers want, then that's what they should go after.

U.S. INVOLVEMENT IN VIETNAM

Mr. HATFIELD. Mr. President, Mr. Daniel Ellsberg gained wide experience during his time of service within Government, particularly related to our involvement in Vietnam. He was one of those officials who had full access to the internal documentation of the long history of our involvement in Indochina. Thus, he stands in an excellent position to offer his judgments and perspectives on what drove us into this futile war, and perhaps more importantly, what has prolonged our tragic, incessant military involvement in Indochina.

Mr. Ellsberg has written an article, which has recently appeared in Public Policy, that presents his views on how and why we became ensnarled in Indochina. He points out with highly perceptive insight that our mistake was not one whereby past Presidents took successive steps, each of which was thought to be the last, in order to stabilize the political situation and achieve our objective of holding Vietnam. Rather, Ellsberg finds that the Government's own record of the war reveals that past administrations were presented with the option of taking drastic, decisive military actions, or else reconsidering our basic objectives and commitments. Yet, those in power refused to acknowledge the truth. They believed, instead, that they could get by and put off the harsh decisions that had to be made. Past and perhaps present Presidents believed that they could not afford the political costs of losing Indochina.

At any rate, Ellsberg argues that according to the Government's own record, those in power have not been blindly led into a military quagmire. Rather, they have failed to face facts presented to them, and refused to accept the burden and political costs of ending a futile and mistaken action. Thus, they sought to buy time, and ended up passing on their inheritance to the next President and administration.

It becomes clear from these perspectives that the choice we must make about Vietnam has always remained essentially the same. We must decide that we have done all we can, and that we can and must do no more. That decision has yet to be made. The Senate's vote Tuesday on the amendment offered by the Senator from Montana (Mr. MANSFIELD) is a first step toward that acknowledgment—a first step toward facing the truth.

As we all know, Mr. Ellsberg has been much in the news lately. Therefore, the article he has published in Public Policy has a timely significance. I ask unanimous consent that it be printed in the RECORD. I also ask unanimous consent that the transcript of an interview between Mr. Ellsberg and Walter Cronkite of CBS News, which appeared yesterday evening, be printed in the RECORD.

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

THE QUAGMIRE MYTH AND THE STALEMATE MACHINE

(By Daniel Ellsberg)

In South Vietnam, the U.S. had stumbled into a bog. It would be mired down there a long time.—Nikita Khrushchev to Ambassador Thompson, July 1962.

By middle of the First Indochina War, French journalists, contradicting the generals, were telling French readers of a bog in Indochina. Lucien Bodard's account of the 1946–1950 period—which looks quasi-prophetic today—was entitled "The Bogging Down," or in its American edition, *The Quicksand War*.[1] By the mid-1960s Americans had similar stories to tell. The parallel account was David Halberstam's *The Making of a Quagmire*,[2] published just as the real buildup of American ground forces and airpower was beginning.

"Many people thought the title was too harsh, more pessimistic than was warranted," Halberstam recalls. Within two years many of the same people had come to find that title just right. This included some former officials—Arthur Schlesinger, Jr., for one, and later Richard Goodwin and Townsend Hoopes—who now saw the war, with its greatly increased human and material costs, reflecting good intentions but wrong premises and offering little promise of success.

For a great many, perhaps most Americans, images of "quagmire . . . morass . . . quicksand . . . bog" dominate their perception of America's relation to the Second Indochina War. Along with the notion of "stumbling in," these metaphors convey a particular, widely-shared understanding of the process of decisionmaking that has yielded a steadily expanding American military involvement in Indochina.

It is a conception that Arthur Schlesinger, Jr., has made precise, as we shall see below. Its implications of lack of foresight, awareness, or calculation are not highly flattering to past responsible officials but are at least extenuating. They accord with the almost universal presumption that the outcome of the process—in Schlesinger's words, "that nightmare of American strategists, a land war in Asia"—*must* be "a war which no President . . . desired or intended," a war in which "we"—Presidents and all—"find ourselves entrapped."[3]

Yet the quagmire conception is, it will be argued here, a profoundly misleading one. The factual premises on which it is based, about what the President was told to expect from various courses, are mistaken. On more inferential matters, it suggests answers that are probably wrong to the questions: What did our Presidents think they were doing? What was aimed at, what hoped for? What was the causal role of inattention, bureaucratic conflict, and overoptimism? With respect to the future working of the decisionmaking process, the "quagmire" notion is likely to yield poor predictions, and poor advice on how to bring about change.

For one critical decision period, at least—the fall of 1961—information now publicly available is sufficient to test, and indeed to establish, these propositions. That is possible mainly because of the revelation by the "Kennedy historians" of much previously concealed data relating to the decisions. For few other periods are the public data relating to the decisions. For few other periods are the public data comparably adequate. Thus, until more such materials are made public, readers who have not had official access to them can only regard most of the propositions presented here with respect to periods other than 1961 as hypotheses. As such, their implications, at least, can be analyzed; and they can be tested to some extent against the judgments of others who have had relevant governmental experience, as well as against past and current events.[4]

Let us begin by examining the late-1961 decisions in detail, as a test of Schlesinger's "quagmire model," which is first defined. Then we shall turn to the origins in 1949–1950 of American military involvement in support of the French, for clues to an alternative understanding of presidential motives, perceptions, and choices. One hypothesis that seems to fit well many otherwise puzzling aspects of choices over the entire period from 1950 to 1968, and perhaps later, is presented in the form of a "stalemate machine": a set of decision rules that Presidents

Footnotes at end of article.

(four so far, going on five) have acted "as if" they obeyed. After exploring some of the patterns in policy and performance that emerge from applying such rules to the problems officials have perceived in Indochina, we will return to the "quagmire model" to consider why, flawed as it is empirically, it appears so plausible and appeals so strongly.

THE SCHLESINGER "QUAGMIRE MODEL"

The precise implications of the "quagmire" notion for an understanding of the policy process have been spelled out by Arthur Schlesinger, Jr., in two much-quoted passages, the first referring to the increases in the level of military advisers in Vietnam under President Kennedy in November 1961:

"This was the policy of 'one more step'—each new step always promising the success which the previous *last step* had also *promised* but had unaccountably failed to deliver . . .[5]

"And so the policy of 'one more step' lured the United States deeper and deeper into the morass. In retrospect, Vietnam is a triumph of the politics of inadvertence. We have achieved our present entanglement, not after due and deliberate consideration, but through a series of small decisions. It is not only idle but unfair to seek out guilty men. President Eisenhower, after rejecting American military intervention in 1954, set in motion the policy of support for Saigon which resulted, two Presidents later, in American military intervention in 1965. Each step in the deepening of the American commitment was *reasonably regarded at the time as the last that would be necessary*. Yet, in retrospect, each step led only to the next, until we find ourselves entrapped in that nightmare of American strategists, a land war in Asia."[6]

With this dynamic "quagmire" model, "step by step, each one promising success," Schlesinger purports to explain the whole process that led from Eisenhower's support to Diem in 1954 to American military intervention in 1965. The model can as well be measured against the longer period from our first direct military grants to the French in 1950 under Truman—Schlesinger curiously neglects these Democratic roots—to the present. Many would find it equally persuasive, compellingly so, for the whole period.

It is an unusually satisfying abstraction. It is simple, even elegant. It sums up a long series of decisions coherently to explain a baffling outcome. It is unquestionably plausible: almost surely more so than any simple alternative drawing upon publicly available evidence. So many of the gross, observable features of our involvement are encompassed: the gradualness; the public, sometimes clearly genuine optimism; evidently surprising setbacks followed by new commitments. And it accords with the major, almost universal presumption that the "nightmare" outcome *must* have been as unforeseen even as a strong possibility by those who made the decisions leading toward it; or else they would have drawn back, or warned the public of the demands ahead.

As a generalized account of the important decisions, and the considerations that led to them, which increased American involvement in Indochina, this explanation is marred only by being totally wrong for each one of those decisions over the last twenty years.

This is not to deny that these were months and years in those two decades when ill-founded optimism—which was publicly asserted almost continuously by officials to the American people—actually ruled the minds of most insiders including the President. For example, this was true during most of 1962;[7] likewise, parts of 1955, 1957, and 1967. But none of these were years in which significant new U.S. commitments were determined or begun. Indeed, what needs explaining is not how optimism led regularly to decisions to escalate—there is no such pattern, nor even a major instance through 1968—but how bureaucratic optimism developed after, and out of, decisions to expand the nature of U.S. involvement. The latter decisions, as revealed in internal documentation, reflected desperation more than hope.

The specific years in which these new involvements and new programs were chosen and begun were without exception periods of crisis and pessimism, generally far blacker than ever admitted to the public. Nor, in retrospect, do the dark assessments during these periods appear nearly so distorted or unfounded as do, now, the moods of optimism that regularly came later. In the actual years of decision, the gap between estimates and reality—covering both the current situation and the prospects of the option actually chosen—was relatively small, surprisingly and creditably so.

Not one of these decision points, in fact—1950, 1954, 1955, 1961, 1963, 1965 (see the discussion below)—fits Schlesinger's generalization to the slightest degree. For not one of them, viewed from the inside, is that description anything but radically misleading.[8]

That is strikingly true of the very decision that Schlesinger characterizes as typifying the "policy of 'one more step'": John F. Kenedy's decision to break openly through the 1954 Geneval ceiling on U.S. military personnel in South Vietnam, starting the climb from under 1,000 to over 15,000 "advisors" and support personnel at the time of his death.

To be sure, newspaper accounts at the time of this episode of policymaking—whose public aspects began with Kennedy's sending General Maxwell Taylor and Walt W. Rostow on a mission to Saigon—fully support, in retrospect, the "quagmire" interpretation. But those accounts were mistaken, based partly on official lies. Ironically, it is Schlesinger's own account that reveals the facts that contradict both these earlier, "managed" inferences and his own generalization. Because the phenomenon of deception is part of what is to be explained, let us look first at the newspaper versions, then at Schlesinger's report.

THE NOVEMBER 1961 DECISION

The day that General Taylor and his mission left Washington for South Vietnam, the *New York Times* headlined a story by Lloyd Garrison: "Taylor Cautious on GI's for Asia"; "Departs for South Vietnam—Hints US Reluctance to Commit Troops."[9]

The story noted:

"Last week President Kennedy announced that he was sending General Taylor and an eleven-man mission to South Vietnam to make 'an educated guess' about whether the United States would be required to send troops to stop Communist advances in Southeast Asia. . . .

"Before he departed aboard a military jet airliner, General Taylor, who is the President's special military adviser, was asked to comment on reports that President Kennedy was becoming increasingly reluctant to commit United States forces to a fighting role in South Vietnam. . . .

"General Taylor declined to speak for the President, but declared: *"Any American would be reluctant to use troops unless absolutely necessary."*

"His remarks appeared to reflect a tendency on the part of high Administration sources to pull back from earlier warnings of the possible use of United States troops in the fighting."

James Reston, in a column from Washington dated October 19, declared that reports aroused by the Taylor mission that "the United States is about to plunge into the guerrilla warfare of Southeast Asia . . . should be taken with considerable skepticism, at least for the time being."

"General Taylor is not only a soldier but a philosopher with a soldier's respect for power and geography, and a philosopher's sense of perspective. Accordingly *he is not likely to favor plunging blitherly into a jungle war* 7,000 miles from home where the landscape and the logistics favor the enemy. . . .

"President Kennedy is not eager to add to his problems in Germany by mounting an adventure in Southeast Asia, and while additional troops may be sent there to help train and direct the defenders, *General Taylor has certainly not gone there to organize an invasion.*"

Over the next week, speculation continued to focus on Taylor's conclusion as to whether or not U.S. combat troops would be needed in South Vietnam. Speaking at the airport as he left Saigon, Taylor agreed that this issue was "one of the principal things I have been asked to look at," but kept his opinions for the President.

"I am going back with my own impressions of what might be done . . . Obviously I cannot discuss what these recommendations will be as they are primarily the property of my President and he will have to decide what to do about it," General Taylor declared.

"I have great confidence in the military capability of South Vietnam to cope with anything within its border," he went on, and to defend the country against conventional attack."[10]

On November 3, General Taylor returned to Washington, spoke to reporters at the airport, then saw President Kennedy for two hours at the White House. The lead story in the *New York Times* on November 4, by E. W. Kenworthy, reported:

"On his return from a three-week mission to Southeast Asia, General Taylor said that President Ngo Dinh Diem had the 'assets' available to prevail against the Communist threat.

"The General declined to comment directly on whether he would recommend sending United States combat troops to stiffen the Vietnamese forces in their fight against the Viet Cong (Communist) guerrillas.

"However, when General Taylor was reminded at the airport that his remarks before leaving Saigon had been interpreted as meaning that President Ngo Dinh Diem's problem was not manpower, the general replied: "That is correct. It is a populous country.'

"Officials said it was correct to infer from this that *General Taylor did not look favorably* on the sending of United States combat troops at this time. . . .

Although some officials in the White House and the State and Defense Departments are known to favor the dispatch of American forces, there would be *considerably surprise here if General Taylor recommended such a move.*[11]

"Furthermore, the President is known to be opposed to sending troops except as a last resort. . . .

"While opposing the sending of American combat forces, General Taylor is understood to favor the dispatch of necessary military technicians and to propose intensified training of South Vietnamese elite troops in anti-guerrilla warfare by United States Rangers."

On November 16, Kenworthy reported:

"President Kennedy has decided on the measures that the United States is prepared to take to strengthen South Vietnam against attack by Communists.

"The measures, which received final approval yesterday at a meeting of the National Security Council, *closely follow the recommendations* made by General Maxwell D. Taylor, the President's military adviser. . . .

"The United States' plans do not include the dispatching of combat units at this time.

"Officials emphasized that President Kennedy and the National Security Council had not foreclosed the possibility of sending ground and air combat units if the situation deteriorated drastically. The President, it was

Footnotes at end of article.

said, does not wish to bind himself to a "never-position."

"However, *the President and General Taylor are agreed,* according to reliable informants here, that the South Vietnamese Government is capable of meeting and turning back the Communists' threat provided it speeds the training of its regular forces, solves the problem of mobility, develops a reliable intelligence system and adopts reforms in its military staff structure to free it from political interference."

From this series of articles, based on "reliable, official" sources, uncontradicted by any official, readers of the *New York Times* could only conclude that Taylor and Rostow, sent over to Vietnam to evaluate the need for combat units, had recommended against sending such forces and had assured the President that the programs he adopted, which did not include combat units and which allegedly encompassed their recommendations, were adequate to meet U.S. objectives.

This was the opposite of the truth.

What Taylor and Rostow actually recommended was exposed to the public by Arthur Schlesinger's own account, half a decade later:

"The Taylor-Rostow report recommended an enlargement of the American role, essentially through the penetration of the South Vietnamese army and government by American "advisers," attached to Vietnamese military units of government offices and designed to improve the level of local performance. Taylor and Rostow *also* recommended that an American military task force—perhaps 10,000 men—go to Vietnam, commissioned to conduct combat operations for self-defense and perimeters security and, if the Vietnamese army were hard pressed, to act as an emergency reserve. The report concluded by saying that *this* program would work *only* if infiltration from the north were stopped and that, therefore, should this infiltration continue, the United States should consider a contingency policy of retaliation against the north, graduated to match the intensity of Hanoi's aid to the Viet Cong.

"Kennedy rejected both the northern strategy and the use of combat soldiers. . . . He increased the number of military advisers." [12]

Schlesinger does not seem to have noticed what damage this account does to his proposition just two sentences later concerning Kennedy's decision: "This was the policy of 'one more step'—each step always promising the success which the previous last step had also promised but had unaccountably failed to deliver."

He reports, after all, no promises whatever concerning the set of programs Kennedy actually adopted, which omitted both of the critical elements mentioned, "the northern strategy and the use of combat soldiers." And in fact, for what remained, no promises were made by Taylor and Rostow, or by anyone else.

The implications of this discrepancy are obscured by Schlesinger's rather offhand comment that Taylor and Rostow "also" recommended—or as he put it elsewhere, "even envisaged" [13] sending an American combat task force. Such phrases hint that this proposal was presented as merely one among many, perhaps as a tentative luxury that could be discarded without affecting essentially the prospects of an otherwise-adequate strategy.

The fact is that Taylor described the sending of U.S. ground combat units as *essential* if the U.S. were to reverse the current downward trend of events. He reported that he did not, in fact, believe that the program to save South Vietnam would succeed without it. As Theodore Sorensen reports, "Many believed that American troops were needed less for their numerical strength than for the morale and will they could provide to Diem's forces and for the warning they could provide to the Communists." [14]

But if these were, as Sorensen describes them, "speculative psychological reasons," Taylor and Rostow did not put them forward lightly. The immediate problem they found in Vietnam was "a double crisis of confidence: doubt that the United States was really determined to save Southeast Asia; doubt that Diem's methods could really defeat the Viet Cong." [15] No alternative action, Taylor maintained, could be so convincing of U.S. seriousness of purpose and hence so reassuring to the people and government of South Vietnam and to her allies as the introduction of U.S. forces. The Vietnamese and Southeast Asians would undoubtedly draw definitive conclusions, Taylor and Rostow believed, in the coming weeks and months concerning the probable outcome and would adjust their behavior accordingly. What the U.S. did or failed to do (i.e., in that period) would be decisive to the end result.

A force large enough to have the psychological effects required, Taylor suggested, must be more than a bare token, and must be capable of performing tasks of significant value, including (in Schlesinger's paraphrase), "conducting combat operations for self-defense and perimeter security and, if the Vietnamese Army were hard pressed, of providing an emergency reserve." [16]

Taylor underlined the urgency by making explicit his recognition of an impressive list of disadvantages of the proposed move. These included: an increased engagement of U.S. prestige; the difficulty of resisting pressure to reinforce the first contingent if it were not enough (there was no limit to the possible commitment, he warned, if we sought ultimately to clean up the insurgents, unless we attacked the source in Hanoi); and the risk of escalation into a major war in Asia.

It was in the face of all these possible drawbacks that he made his recommendation to introduce a task force without delay—made it on the grounds that a U.S. program to save South Vietnam simply would not succeed without it.

Thus, the initial task force was presented as necessary to success. Would it also be sufficient? Certainly not in case of invasion, which it might possibly provoke; in that case, it was made clear, the initial 8,000–10,000 troops would be no more than an advance guard. But even short of that contingency, the report emphasized that continued infiltration—which was more likely than not—would require not only larger U.S. forces, but the bombing of North Vietnam. In Schlesinger's words:

"Taylor and Rostow *hoped* that *this* program (i.e. including the Task Force) would suffice to win the civil war—and were sure it would *if only* the infiltration from the north could be stopped. But if it continued, then they could see no end to the war. They therefore raised the question of how long Saigon and the United States could be expected to play by the existing ground rules, which permitted North Vietnam to train and supply guerrillas from across the border and denied South Vietnam (sic) the right to strike back at the source of aggression. Rostow argued so forcibly for a contingency policy of retaliation against the north, graduated to match the intensity of Hanoi's support of the Viet Cong, that "Rostow Plan 6" became jocularly established in the contingency planning somewhere after SEATO plan." [17]

In the spring of 1961, for an audience at the Fort Bragg Special Forces School and later in public writings, Rostow had described the "sending of men and arms across international boundaries and the direction of guerrilla war from outside a sovereign nation" as a new form of aggression, calling for unilateral retaliation against the "ultimate source of aggression" in the absence of international action.[18] (Apparently the major lesson Rostow and Taylor had learned from the Bay of Pigs operation, which took place about the same time as Rostow's speech, was that Castro, or Khrushchev, had the right to bomb Florida, and Washington.)

In a passage of his report later revealed by President Johnson, Taylor foreshadowed the "Rolling Thunder" bombing campaign that Johnson initiated three years later, when Taylor was Ambassador to South Vietnam:

"It is clear to me that the time may come in our relations to Southeast Asia when we must declare our intention to attack the source of guerrilla aggression in North Vietnam and impose on the Hanoi Government a price for participating in the current war which is commensurate with the damage being inflicted on its neighbors to the south." [19]

Such were the views of President Kennedy's most trusted military advisor, whom he had brought out of retirement and later named Chairman of the Joint Chiefs of Staff. Sent to Vietnam precisely to evaluate which, if any, of several proposed schemes of U.S. combat deployment to Vietnam would be appropriate, Taylor came back to tell the President his answer: The situation was "serious but not hopeless," i.e., not hopeless if and only if the President promptly dispatched sizeable U.S. combat units, with the understanding that more troops, and bombing of the North, would probably be required as later steps.

The initial program, as a whole, was presented as adequate for the short run; probably inadequate for the long run, requiring major additional measures; almost surely inadequate for both long-run and short-run aims without the vital element of the task force, for which there was no convincing substitute.

President Kennedy bought the program minus the task force.

Nor was this rejection of the task force because Taylor and Rostow were alone in their advocacy of it. As Sorensen reveals, the Joint Chiefs of Staff had advocated a commitment of U.S. ground troops to Vietnam (and/or Laos) as early as May 1961, as had an interagency task force.[20] After Taylor returned, the Joint Chiefs of Staff reiterated this recommendation. Moreover, they subscribed to Taylor's emphasis on its urgency and, among the whole shopping list of proposals, its critical role. Moreover, in the first week in November 1961, Secretary of Defense Robert McNamara and his Deputy, Roswell Gilpatric, strongly associated themselves with the appreciation and recommendations of Taylor and the JCS.

It must be underscored that there was no haziness in internal discussion about the distinction between U.S. ground combat units, on the one hand, and the mixed bag of advisors, logistics, and combat support troops, including intelligence, communications, and helicopter personnel, on the other. These two categories were regarded by all as posing very different risks and benefits; and by October 1961, even prior to Taylor's trip, it was regarded as almost a foregone conclusion that the latter would be supplied.

Given the expectation prior to the Taylor-Rostow Mission that at least the advisory build-up and other measures short of troops would be approved, and given the recommendations he actually received, it seems likely that the President himself and his high-level advisors regarded his rejection of the proposal to send combat units immediately as his most, perhaps only significant decision of the period (although, as such, it was successfully concealed from the public). As Sorensen puts it: "All his principal advisers on Vietnam favored it,[21] calling it the 'touchstone' of our good faith, a symbol of our de-

Footnotes at end of article.

termination. But the President in effect voted 'no'—and only his vote counted."[22] Yet at the same time the President voted "yes" to a set of remaining programs which every one of his advisors described as almost surely inadequate in the light of his various "no's," and perhaps in any case: inadequate not only to achieve long-run success but to avoid further deterioration in the mid-term.

Why the President may have cast his pair of votes this way is a question for later—and more speculative—discussion; likewise, the consequences of his doing so, and a critical evaluation of such choices. What can be said unequivocally about this description of the alternatives and forecasts presented to Kennedy, and of his choice, is that it flatly contradicts Schlesinger's "quagmire" model. It defines what is to be explained about the actual decision process in terms quite different from Schlesinger's.

There is no basis whatever for describing the President in this instance as taking a "small step" because he was promised success with it, or because it was "reasonably regarded as the last that would be necessary." What he was told was the contrary, and that from virtually every source. His decisions, he was assured, held out the almost certain prospect that new, larger steps, or else retreat, would present themselves as hard choices in the not-distant future.

The "promise" of inadequacy of the chosen measures was not limited to the Pentagon, nor did it relate merely to the omission of combat forces. Each agency had its own top candidates for features of U.S. policy "essential" to success in Vietnam. Before the year was out, the policy had given up pretensions, at least temporarily, to maintaining any one of these features.

Thus the State Department pressed political reforms and "broadening" of the Saigon regime as "essential"; without these, it was judged, even the full military commitment recommended by the Pentagon would probably fail. In Saigon, the MAAG continued to emphasize administrative and command changes as "essential" to long-run success.

Both of these proposals had bureaucratic opponents who argued that however useful or even necessary they might be in the long run, they were risky or "counterproductive" in the short term: "rocking the boat," risking the stability of the Diem regime or U.S. influence on it needed for more pressing matters. Nevertheless, in contrast to the proposed combat task force both of these sorts of "reforms" were included in the programs determined by Kennedy in mid-November and presented by the Ambassador to President Diem. By December or January, both had been, for practical purposes, abandoned. Critical measures urged by AID and CIA met the same fate.

Advocates of short-run priorities had won out bureaucratically, in the face of Diem's open resistance to these attempted "interventions." (Diem's intransigence and U.S. lack of "leverage" were even more marked than usual, reflecting embarrassment on both sides that he was getting neither the bilateral defense treaty for which he had privately asked nor the U.S. troop commitment for which Taylor had led him to hope.) Thus, the new presidential program for Vietnam preserved the peculiar character of omitting every feature emphasized by any U.S. agency—or by the Diem regime—as "essential" to longer-run success.

The President, of course, had his reasons. Many of them were good enough reasons, even in retrospect. But they had little to do either with optimism or inattention. For one thing, John F. Kennedy, who had first visited Indochina in 1951 and had criticized the French effort and U.S. intervention in the Senate, was one of the few officials—George Ball was another—who both knew the French experience and could perceive it as a warning even to Americans.

Moreover, by November, 1961, President Kennedy—"his skepticism deepened by the Bay of Pigs experience and the holes in the Laos report"[23]—had bureaucratic lessons of his own to draw upon. Both bodies of experience pointed to the same moral: the threat of quicksand. Or, to change the metaphor, as Kennedy did in a pithy remark to Schlesinger relating to Taylor's request, the risk of addiction:

"They want a force of American troops. . . . They say it's necessary in order to restore confidence and maintain morale. But it will be just like Berlin. The troops will march in; the bands will play; the crowds will cheer; and in four days everyone will have forgotten. Then we will be told we have to send in more troops. It's like taking a drink. The effect wears off, and you take another.[24]

"Yet"—the sympathetic historian is forced to record—"he felt obliged to offer a small drink himself, and he increased the number of advisers."

"More drinks were still to come. At the end of 1961 there were 1,364 American military personnel in South Vietnam; and the end of 1962, 9,865; at the time of Kennedy's death in November 1963, about 15,000. This was the policy of 'one more step'. . . ."[25]

Why? Why that small drink? Ignorance of the risks of addiction is belied by Schlesinger's own anecdote of his conversation with the President; belief that one small drink was all that the doctor ordered, as Schlesinger's generalization implies, is belied by his whole account. If the President was not willing to do more than he did, why did he not do much less? Why court both commitment and costly failure?

TWO DECADES OF CHOOSING STALEMATE

It appears, in the light of internal documentation, that the elements of paradox above apply virtually across-the-board to major presidential initiatives on Vietnam over the last two decades. (This study, however, addresses decisions only through 1968.) No more than in 1961 were the measures of increased involvement that were actually adopted promised or expected to be adequate "last steps" or, indeed, anything but holding actions, adequate to avoid defeat in the short run but long shots so far as ultimate success was concerned. This is true of each of the major years of decision over that generation:

1. 1950, when the first $10 million in credits were granted by the Truman administration to the French and Vietnamese efforts against the Viet Minh (in May, a month before the Korean invasion);

2. 1954, when direct entry into the war was considered and rejected by Eisenhower, followed by a gradually hardening commitment to the support of Diem;

3. late-1961;

4. 1963, the Kennedy decision to encourage the overthrow of Diem;

5. 1965, the Johnson decisions to bomb North Vietnam, then to deploy U.S. troops in limited numbers to South Vietnam and employ U.S. air support, then after mid-July, to accept open-ended ground force commitment;

6. 1968, when proposals to mobilize reserves and expand the war to Cambodia and Laos were considered and rejected, followed by "Vietnamization" and talks.

In some of these years—e.g., 1954, 1961, 1965, 1968—certain approaches were presented by their proponents as winning strategies—and this reassurance that a "win" was possible may have had some influence on the climate of policy-making—but these were never the options chosen. This fact underscores the perceived inadequacy of the courses actually adopted, which emerges even more directly from intelligence estimates at the time; these estimates rarely endorsed even the optimistic claims made by "operators" for the more drastic proposals that were rejected. In other years—e.g., 1950, 1955–56—the policy followed was seen by all as about the best available, yet offering little promise of victory.

In fact, perhaps the most striking discovery to be made by someone surveying the internal documentation for the first time (probably approaching it with something like the quicksand model in mind) is the persistent skepticism about long-run non-Communist prospects and about proposals for improving them, a pessimism almost unrelieved, often stark—yet in retrospect, creditably realistic, frank, cogent—that runs through the intelligence estimates. That is true especially from 1950 through 1961, but after as well.

As for policy analyses and proposals, as distinct from intelligence estimates, one peculiar format for major recommendations on policy is so generally characteristic that it might be called the Proposal Pattern, or more suggestively (since these recommendations came close to adoption, or were chosen, only in crisis periods) the Desperate Proposal Pattern. This takes the form, not (as the quagmire model suggests) "Do this, because it will work, or, work better, cheaper, faster, or with less risk," but simply "Do this—because the *alternatives* are *certain to fail*—and failure would be 'unacceptable, intolerable.' "

It is of the essence of the Desperate Proposal Pattern (DPP) that these limited assertions are *all there is to it*. There is no mention, in particular, that the proposed approach itself will work, with any degree of probability. Although it is implied, and sometimes stated, that the proposed course *might* "succeed," in contrast to alternatives, there is no mention at all of the probable total scale or costs of the recommended program or, even roughly, its probability of success, or the consequences of failure.

How could decision-making proceed on such a basis? How could Presidents, time after time, tolerate recommendations being presented in such a form, without pressing for more information?

To come this close to the fine grain of official choices on Vietnam is to be confronted with puzzles and doubts, to be mired, indeed, in uncertainties. What seemed clear as one listened to speeches, or observed official actions, or compared the two, is less so when files are opened, and concealed actions, official estimates, and internal arguments emerge. Under the magnifying lens, previously evident over-all patterns—like the quagmire hypothesis—dissolve like the canals on Mars.

As Leslie Gelb sums up this long period, in an important forthcoming paper:[26]

"The system worked. The story of United States policy toward Vietnam is either far better or far worse than supposed. Our Presidents and most of those who influenced their decisions did not stumble step-by-step into Vietnam, unaware of the quagmire. U.S. involvement did not stem from a failure to foresee consequences."

Almost regardless of his attitudes on the war, a reader is likely to rise from a survey of internal evidence baffled and troubled, with the question on his mind: "How could they?" How could four Presidents—Truman, Eisenhower, Kennedy, Johnson—in the face of estimates and program analyses and recommendations like these, so persistently have chosen what were almost always presented at the time of decision as long shots, almost surely inadequate in the long run, potentially costly and risky, in favor either of measures purported to be more effective or of lesser involvement?

Documentary evidence on the internal decision-making process is far from adequate to answer the critical question of what considerations were salient to presidential atten-

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Footnotes at end of article.

tion at a given moment. The President—having no formal need to persuade a superior, to coordinate a proposal or to justify a decision internally—puts much less down on paper than other participants in the bureaucratic process. Because of his overlapping roles, he conceals or dissembles his own views even more than other participants, except selectively to his closest associates. They in turn guard them closely, for reasons of loyalty, their own access, and politics, even when they later come to write "history."

In fact, certain general considerations caution the analyst/historian not to take the mosaic of bureaucratic inputs to presidential decision as a close or highly reliable guide to the President's own view of a matter, his private expectations and aims.

First, the President may, to some degree, disbelieve the estimates. He may believe that a pessimistic tone reflects a bias, or a bureaucratic hedge. (Although in retrospect, the intelligence analyses of the 1950s, and to a somewhat lesser extent the 1960s, look realistic, not vague or excessive, in their pessimism; they read well today.)

As for claims that measures he has decided to reject or postpone are "essential," he may feel (often with justice) that this language is largely a bureaucratic ploy, an attempt to tie his hands or to make a record as a future hedge.

Most Presidents probably acquire, fairly quickly, some skepticism about assertions that they "must" act *immediately*, or adopt a proposal in full or on a vast scale, if they are to avoid disaster or have any likelihood of success. They are likely to be drawn to converting a program into a sequential decision, "buying time, awaiting information, keeping options open." They can also claim to be doing so, as a way of rejecting a proposal without foreclosing its proponents' hopes.[27]

Moreover, as Richard Moorsteen has pointed out to me, many Presidents, as successful politicians, are likely to exhibit these same traits for temperamental reasons as well. A strong focus on the short run, a hopeful attitude toward one's future, a tendency to put off painful decisions in the hope, and with some confidence, that "something will turn up" (to make the decision either unnecessary, or easier): All these are part of the typical make-up of a politician. A President, as Moorsteen puts it, will have attained that office only by winning a long succession of long shots; by the time he gets there he is likely to have a strong belief in his lucky star, a confidence that he can get away with what looks like chance-taking where others might not, confidence that something will always turn up for him. A Bay of Pigs experience comes to him as a special shock; yet even that will probably not erase the traits permanently.

These considerations go some part of the way to explain discrepancies between the President's view and choice and the estimates and proposals pressed on him by his advisers. But they cannot really bear the main weight of explanation. To explain these actual discrepancies almost wholly in terms of presidential operating straits or temperament, for example, would imply White House wishfulness, or a general exclusive focus upon the short run, so extreme as to seem almost psychotic. Rather, it is likely that the factors above did work marginal differences in degree in the President's thinking from that of his advisers, but unlikely that they counted for more than that. There is simply no evidence that, in any instance, a President was radically more optimistic than the expressed appreciations of odds and possibilities presented to him: a conclusion which leaves us still facing the earlier puzzles.

Thus, when all this is said, the stumbling-into-quicksand image cannot be revived when one looks at the internal record. Instead one sees, repeatedly, a leader striding with his eyes open into what he *sees* as quicksand, renewing efforts and carrying his followers deeper in, knowingly. Why? Presumably, because he sees no alternative, and hopes to find a way through, or because the alternatives seem even more threatening, worse in the short run. But what is the alternative future that the DPP describes as "intolerable"? What is the failure so ominous that it must be postponed at such costs, while concealing its prospect from the public?

Looking only at the set of critical decision points, one sees, not an unwary traveller miring down imperceptibly, but a different image: Eliza, fleeing across the broken ice of the river, leaping from block to block as each begins to slip. . . . And the question becomes: What whips threaten, what are the hounds that bay on the departed shore?

In one period, at least, 1949–1950, the identity of the pursuers was in little doubt. A close look at that decision point—when lack of prior involvement screens out several of the hypotheses competing for attention later—suggests answers to many of the questions raised so far.

1950 THE EDGE OF THE BOG

At the time an American President first left solid ground behind to step into the Indochina War, the main pursuers to his rear had known faces and names, and their accents were American. The voices included those of such Senators as William Knowland, Styles Bridges, Kenneth Wherry, and Pat McCarran, three "Asia-first" Republicans and a right-wing Democrat, who denounced the China White Paper issued by the State Department on August 5, 1949, as "a 1,054-page whitewash of a wishful, do-nothing policy which has succeeded only in placing Asia in danger of Soviet conquest."[28] And even Arthur Vandenberg: "I think we virtually 'sold China down the river' at Yalta and Potsdam and in our subsequent official demands for coalition with the armed Chinese Communists."[29] And Richard Nixon, whose questioning of Alger Hiss in 1948 had broken down the Hiss defense and whose efforts were more responsible than any others in bringing an indictment against Hiss (and helped him defeat Helen Douglas for the Senate in the fall of 1950 on the theme of her "soft attitude toward Communism"). But also, a man who was to defeat Richard Nixon a decade later—in part on the charge that the Republicans had lost Cuba to Communism—who was granted one minute to address the House as follows on January 25, 1949:

"Mr. Speaker, over this week end we have learned the extent of the disaster that has befallen China and the United States. The responsibility for the failure of our foreign policy in the Far East rests squarely with the White House and the Department of State.

"The continued insistence that aid would not be forthcoming unless a coalition government with the Communists was formed, was a crippling blow to the National Government.

"So concerned were our diplomats and their advisers, the Lattimores and the Fairbanks, with the imperfection of the democratic system in China after 20 years of war and the tales of corruption in high places that they lost sight of our tremendous stake in a non-Communist China.

"Our policy, in the words of the Premier of the National Government, Sun Fo, of vacillation, uncertainty, and confusion has reaped the whirlwind.

"This House must now assume the responsibility of preventing the onrushing tide of Communism from engulfing all of Asia."[30]

Thus the Democratic Representative from Massachusetts, John F. Kennedy.

Above all, by the spring of 1950 there was the voice of Senator Joe McCarthy, whose sensational charges of Communist infiltration of the State Department began 18 days after Hiss was convicted in a second trial—or two weeks after Secretary of State Acheson announced, "I will not turn my back on Alger Hiss"—with his speech in Wheeling, West Virginia, on February 9, 1950.

"How can we account for our present situation," McCarthy was to ask later, unless we believe that men high in this government are concerting to deliver us to disaster? This must be the product of a great conspiracy on a scale so immense as to dwarf any previous venture in the history of man."[31]

Or more specifically, in a Senate speech on March 30, 1950:

"It was not Chinese democracy under Mao that conquered China, as Acheson, Lattimore, Jessup and Hanson contend. Soviet Russia conquered China and an important ally of the conquerors was this small left-wing element in our Department of State."[32]

In less that nine months, criticism of "our loss of China" had moved from condemnation of our "wishful, do-nothing" policy to discern a more sinister meaning in what had seemed passivity. As Graebner paraphrases the attack:

"United States policy failed, in short, because it had pursued the goals, not of this nation, but of the Soviet Union."[33]

Meanwhile, in December 1949, Chinese Communist troops had reached the borders of Indochina. At that point, granted sanctuary, supplies and expert advisers, it became virtually impossible for the Communist-led nationalist forces of the Viet Minh to lose to the French. But for the same reason, given the domestic environment in the U.S. described above, it had become "intolerable" to the Truman Administration that they should win.

"The unfortunate but inescapable fact is that the ominous result of the civil war in China was beyond the control of the government of the United States. Nothing that this country did or could have done within the reasonable limits of its capabilities could have changed that result; nothing that was left undone by this country has contributed to it. It was the product of internal Chinese forces, forces which this country tried to influence but could not. A decision was arrived at within China, if only a decision by default."[34]

There is a statement that might have suggested itself, in every year from 1949 to the present, as providing the format for explaining a U.S. government decision to abstain or extricate itself from involvement in Indochina. But it is doubtful if that thought ever came to bureaucratic consciousness; the reception of the China White Paper did not encourage it. The argument simply did not "sell," even though its logic rested on the facts that opposing forces in China were immense and dynamic, no American troops were engaged, and there was no real U.S. support for their involvement. As Acheson has put it recently, the conclusion above "was unpalatable to believers in American omnipotence, to whom every goal unattained in explicable only by incompetence or treason."[35] What the State Department learned then, and evidently has never forgotten, was the number of such believers, and their power to wreck policies, administrations, . . . and careers.

In this atmosphere there was no impatience in the State Department to commence the drafting of a parallel Indochina White Paper. In Indochina the battle against Communist-led guerrillas, whose ultimate direction—here Acheson agreed with his attackers—was seen in "the Kremlin," was being carried by Western troops unquestionably able and willing to utilize U.S. materiel. No U.S. troops were needed, or desired: at least, to avert defeat, to bring about a stalemate. On the other hand, temporary stalemate was about all that U.S. estimates offered as the outcome of U.S. aid at that time: at least, in the absence of changes in political strategy that France was extremely unlikely to adopt. Yet the need was urgent; official

Footnotes at end of article.

estimates at the end of 1949 gave French forces in Tonkin only six to nine more months, lacking U.S. aid.

In February 1949, at the apparent initiative of the new Secretary of State, Acheson, the NSC had recommended withholding supplies already earmarked for China. Senator Vandenberg argued successfully against the move, even though he admitted that Communist victory seemed inevitable; "I decline to be responsible for the *last push* which makes it possible." [36] The aid continued; even this did little to protect the administration from its critics, yet it was becoming evident that to have done any less would have been still more risky, more ominously "questionable."

A year later, the position of a proponent within the State Department for withholding military aid from our NATO ally, France, thereby accepting full responsibility for its prompt defeat in Indochina by the forces of the Kremlin, would have been an isolated one. And this despite the fact that estimates at the time held out scant hope that France would accept the political strategies that one might give a significant chance of ultimate victory.

No matter how slim the probability of "winning," there was little debate within the government as to whether the open-ended direct aid policy we commenced in May 1950, with a first installment of $10 million, was worthwhile. It could (and did) buy a stalemate; and the alternative was to add the Democrats' "loss" of Indochina to their "loss" of China. That was enough to know. To postpone the loss of Tonkin beyond the tenure of the Truman Administration evidently seemed worth more than the several billion dollars (and one must add, the French and Vietnamese lives) that it cost.

What leads one to what would otherwise seem a harsh and cynical interpretation is, beside the fact of timing, the great difficulty otherwise of explaining a decision directly to involve ourselves in this struggle—against what was perceived within the U.S. government as a nationalist movement, Communist-led but with the support of the great majority of Vietnamese people—especially given the extreme pessimism of official estimates concerning French prospects in the long run, even with our aid. No more in this first instance than in later ones did the promise of the quicksand model apply: "one small step promising success."

Moreover, other hypotheses on possible motives for accepting a long shot, plausible in later periods, cannot apply here. In 1950, it could not be said that we had to carry out prior commitments or promises; or that our prestige rested on earlier involvement; or that, our own forces having been engaged, we could not afford our own "military defeat."

The relevant events determining our response had taken place outside Indochina. They were the fall of China, following earlier disappointments in Eastern Europe, the Czech coup, and in general, the Cold War; and the response of Republican leadership to these events and to the stunning frustration of their 1948 electoral defeat. (Senator Taft's decision to back McCarthy was an important part of this response.) After these developments, even had there been no prior U.S. involvement in Indochina, "a communist victory in Asia that the U.S. might have prevented" was sure to be read as a defeat for the U.S., a culpable failure by the administration, a basis, even, for charges of conscious treachery.

The facts that involvement posed the likelihood of greater costs in future, risks, even, of major war with China or Russia if the Chinese Communists should enter, all uncompensated by significant promise of eventual success: none of this outweighed the credible promise of intervention to "buy time," i.e., to *postpone defeat*, and to avert the political and personal consequences of charges of "softness on Communism."

With the outbreak of the Korean War, followed rapidly by public disenchantment (and charges that Acheson had even invited it), the message of Republican victories in the fall, and above all the entry of the Chinese Communists into the war, all the earlier motives were sharpened for "buying time" in Indochina. But still not "at any price." Despite the renewed judgment that the strategic stakes in Southeast Asia were of the highest order, there was even less interest than before in committing U.S. ground troops to Indochina. The "Never Again Club" in the Pentagon was in the process of consolidating. And controversy over General MacArthur's dismissal in April 1951 both mobilized critics of administration policy and publicized a premise already present earlier in the attacks by the "Asia-first" Republicans This was a belief that "victory" was not only, as MacArthur emphasized, indispensable, but that it could be had on the cheap, by a patriotic and resolute administration: by a combination of commitment to victory, unrestrained use of airpower, and strong support of Asian allies.[37] To have to employ U.S. ground troops against Asians showed weak strategy, incompetence, irresolution, or neglect of potential Asian allied troops; to lose an area to Communism marked either culpable negligence or treason.

Anyone who has witnessed from inside the U.S. government decision-making on Indochina in such a period as, say, the autumn of 1964 (perhaps the nadir of U.S. hopes regarding South Vietnam in the last decade) will almost surely feel on reading accounts [38] of the 1948–1954 period that he is learning, at least, the genesis of many bureaucratic-political premises of the later debate. Such books describe the events that scratched the minds of a generation of bureaucrats and politicians.

Patterns evident today that become immediately explicable from this history, in career and party terms, include powerful inhibitions against:

1. Proposing "coalition" with Communists (as Marshall was charged with doing in China), or regarding local accommodation as less than tantamount to Communist victory;

2. Pressuring an Asian ally toward "reforms," to the point of risking the charge of weakening his confidence or political base or military capability;

3. Regarding Communist adversaries as anything but terrorists and aggressors (though blessed with "organizational skills");

4. Withholding approval, indefinitely, from military proposals for "victory through airpower";

5. Strongly questioning the assurance, speed, or impact on U.S. interest of an Asian "accommodation" to the Communists after Communist victory in South Vietnam (the "domino theory");

6. Appearing to "do nothing" in face of a possible "loss to Communism" (whether or not an action of any promise of effectiveness is at hand); or regarding such a possible loss as anything but "intolerable." [39]

Thus, for example, in illustration of the last point, an argument made in late 1964 and early 1965 for commencing the bombing of North Vietnam by some who did not hold out high hopes for its effect on the North Vietnamese efforts was that "even if it failed, it would have been worthwhile; it would have demonstrated our willingness to risk, to bloody our opponent, to go the last mile for an ally. . . ." Demonstrate to whom? Allegedly, to foreigners: opponents and allies. Yet the confident assurance—mocked by events—that such benefits would outweigh costs and risks seemed peculiar, even at the time; unless one noted that "doing something" to hurt Communist opponents, no matter how costly and unpromising, would be strong protection against domestic charges of culpable underestimation of a Communist threat, or of defeatism, or even—fantastic as these would have seemed before 1950—of literal treason.

Officials writing such phrases in internal memoranda in 1964 had almost surely not read Vandenberg's diary on his 1949 plea—"I decline to be responsible for the *last push* . . ."—but its bureaucratic echoes had lasted fifteen years. What had been lost to memory was Acheson's counterargument, as expressed at the beginning of 1950 with reference to American involvment in the defense of Formosa: "The Chiefs again objected to the involvement of American forces but proposed some funds for military materiel and a fact-finding mission. I objected to this *toying with the mousetrap*. . . ." [40] To a reader in 1971, that last comment appears almost stunning in its cogency and prescience. Yet to an impartial political scientist writing in the mid-1950s, it marked an attitude and a set of tactics that were simply "politically foolhardy":

"Now, it may be true that Chiang could have been saved only by very large-scale intervention by the United States 'beyond the reasonable limits of its capabilities' (as Acheson asserted in the 1949 White Paper.) But it seems to be carrying logic in the conduct of foreign affairs to self-defeating extremes to make that belief a justification for attempting to block *all* substantial aid, in order to cut American losses. By spending expeditiously a few hundred million more on military aid, as the GOP requested, and by sending as many military advisers as could possibly be spared, the State Department in 1947 could probably still have forced the Republicans to share public responsibility for any later decision to cut the losses. . . . If then the American public had shown a willingness to press on, the rewards of victory or even a stalemate would have been vastly greater than was eventually the case in Korea." [41]

There is the domestic political case for "toying with mousetraps": even if the outcome should be the "rewards of stalemate." That was the lesson that stuck, for Acheson and a generation of successors, when it came to drawing morals for Indochina from the debacle of China policy.

Of course, to point to domestic political considerations as of critical importance to a particular foreign policy decision is not to say either that (1) *only* such domestic concerns figured in the decision; or (2) domestic and international-strategic factors were independent; or (3) domestic considerations were of only one simple sort, e.g., winning the next presidential election. Let us consider these points in reverse order.

Relevant aspects of domestic "politics" that can be influenced by or influence a particular foreign policy include: the prospects of passing a current legislative program (e.g., the Great Society program in 1964); the composition of the next Congress, with its implications for subsequent programs and elections; a President's chances for renomination by his own party, as well as for reelection (see 1968); the prospects of tumultuous controversy during primaries and the election campaign, with its implications for effective governing (again, 1968); the future of one's party (e.g., the feasibility in the 1970s of creating a "new Republican majority"); a President's reputation, his place in history, and his own self-respect (thus, the concern of both Johnson and Nixon not to be "the first U.S. President to lose a war").

Each of these considerations interacts with strategic concerns or with other matters of domestic policy. No President, after all, believes that victory for himself or his party, or the defeat of a particular opponent, is of no more than selfish interest to himself and

Footnotes at end of article.

his supporters: Important issues of foreign and domestic policy and concern are seen as dependent on these legislative and electoral outcomes. And a "humiliation" for an American President is seen—especially by that President, but not only by him—as inevitably a setback for the prestige and influence of the United States as well.

Moreover, to somewhat varying degree, each one of these post-war Presidents has been a "true believer" in the premises of cold-war policy that have figured consistently in their rhetoric. And they themselves have contributed crucially to making these premises influential factors in domestic politics, matters of potential vulnerability for an incumbent. Thus, in their eyes, the imperatives of domestic politics point in the same general direction as do their instincts of "what is right for America."

In the spring of 1950, although Indochina was surely not prominent among the concerns of officials of the Truman administration, all the considerations above pointed to one conclusion, sufficient to determine policy: "This is not a good year for this administration to lose Vietnam to Communism."

Nor was 1951. Or 1952. Korea, the Chinese Communists, MacArthur, an upcoming presidential election, all ensured that.

Nor—for a new administration that had come to office on charges of Democratic "losses" and with loud talk of "rollback" and of "unleashing" Chiang—was 1953 a good year to abandon Vietnam; or, after 1954, South Vietnam. . . .

A decade after 1950, a new Democratic President inherited the task, among others, that he had defined sometime earlier: "preventing the onrushing tide of Communism from engulfing all of Asia." Nine months into his first year in office, he had experienced the Bay of Pigs, the need to seek a negotiated—and probably unstable—settlement in Laos, Vienna, the Wall and Khrushchev's threats on Berlin, and the resumption of Soviet nuclear testing. After all this, John F. Kennedy found 1961, like 1950 and the years between, a bad time to decide to lose South Vietnam to Communism.

Likewise, most of 1962. Yet by that year's end, the situation might have been seen differently, at least on the international front. The Cuban Missile Crisis had established Kennedy's resolve, split further the Soviets and Chinese Communists, ended the Berlin confrontation and prepared the way for the test ban. At the same time, Kennedy's White House Chief of Staff, Kenneth O'Donnell, has revealed, the mood of optimism about Vietnam that had set in during 1962 had been drained for his boss by the end of the year, and still more by the following spring.

In O'Donnell's account,[42] seconded by Senator Mansfield, Kennedy had been disturbed in late 1962 to find himself agreeing with an unexpected argument by Mansfield that he should stop sending more military reinforcements to South Vietnam and then withdraw all U.S. forces from that country's civil war.

A continued steady increase of American military advisers in South Vietnam, the Senator argued, would lead to sending still more forces to beef up those that were there, and soon the Americans would be dominating the combat in a civil war that was not our war. Taking over the military leadership and fighting in the Vietnam war, Mansfield warned, would hurt American prestige in Asia and would not help the South Vietnamese to stand on their own two feet, either.

Impressed, Kennedy still did not change his public position on the need for U.S. support of Diem. But when Mansfield renewed the argument in the spring of 1963, the President called him in privately, and O'Donnell (a witness) reports:

"The President told Mansfield that he had been having serious second thoughts about Mansfield's argument and that he now agreed with the Senator's thinking on the need for a complete military withdrawal from Vietnam.

" 'But I can't do it until 1965—after I'm re-elected,' Kennedy told Mansfield.

"President Kennedy felt, and Mansfield agreed with him, that if he announced a total withdrawal of American military personnel from Vietnam before the 1964 election, there would be a wild conservative outcry against returning him to the Presidency for a second term.

"After Mansfield left the office, the President told me that he had made up his mind that after his reelection he would take the risk of unpopularity and make a complete withdrawal of American forces from Vietnam. 'In 1965, I'll be damned everywhere as a Communist appeaser. But I don't care. If I tried to pull out completely now, we would have another Joe McCarthy red scare on our hands, but I can do it after I'm reelected. So we had better make damned sure that I *am* reelected.' "

There is no way, starting from O'Donnell's understanding of Kennedy's views at this time, to attribute either (1) the continued buildup of advisers throughout most of 1963, or (2) the encouragement of the Diem coup, or (3) Kennedy's continued avowals in 1963 of the domino credo and our unswerving commitment, either to (a) inattention or inadvertence, or (b) confidence in subordinates' optimistic promises, or (c) perception of "no alternative," due to the involvement or pledges of predecessors, or to international concerns.

Indeed, in the light of these revelations of the President's pessimism and intentions, there seems no way to read his measures in 1963 increasing or confirming national involvement in and commitment to the war in Vietnam, except as reflections of John Kennedy's judgment that 1963 was a worse time than 1965 for him to lose a war to Communists, so that he would just have to keep it going till then.

To be sure, "continuing a war" in Vietnam did not mean just the same thing in 1963 that it did in 1965, or 1970, especially for Americans. As O'Donnell pointed out to me recently (February 24, 1971): "43 Americans had been killed in Vietnam at the time of President Kennedy's death. We lost that many in the last two weeks over Laos." (The difference for the Vietnamese between the two periods, although significant, was considerably less.)

Nevertheless, as quoted by O'Donnell, Kennedy did not even claim that he might avoid or reduce the "McCarthy red scare" by postponing it—"In 1965, "I'll be damned everywhere as a Communist appeaser"—but merely that he could prevent it from interfering with his re-election. He proposed to do so by accepting two more years of U.S. involvement, with its evident risks, unless he were "damned sure" to be re-elected, and perhaps even then—of later escalation, U.S. combat involvement, vastly increased American and Vietnamese deaths, and domestic disaster.

All these risks were realized. Kennedy did not live either to win the election or to leave the war. Instead he willed the war to a President determined not to be the first to lose one, leaving an unchanged U.S. policy toward Vietnam to an insecure successor who had some reason to fear the political consequences—even at the hands of the dead President's heirs, officials, and supporters—of publicly abandoning it.

(The risk that "losing" Vietnam would pose some risk from a faction within the President's own party was one that Johnson in 1964 shared with Eisenhower in 1954. Even Richard Nixon has seen himself as facing comparable problems in 1969–1971, his Special Assistant Henry A. Kissinger has reported in numerous "backgrounders":

"If we had done in our first year what our loudest critics called on us to do, the 13 percent that voted for Wallace would have grown to 35 or 40 percent; the first thing the President set out to do was to neutralize that faction." [43])

Sorensen's final comments in *Kennedy* (published in 1965) on his Chief's Vietnam legacy are not unduly upbeat, but they need interpreting. They begin:

"He could show little gain in that situation to pass on to his successor, either in the military outlook or the progress toward reform. His own errors had not helped." [44]

In this, of course, Kennedy does not suffer by comparison with his two predecessors, or his successor. Arthur Schlesinger, Jr., spans his account of the Kennedy term in *The Bitter Heritage* with the sentences: "In January, 1961 the Vietnam mess fell to a new American president . . . [in 1963] a new President inherited the trouble." From the President's perspective of 1961, was this failure, or was it reasonable success? Just the same statements, after all, could be said for the comparable milestones 1953, 1961, 1969. And in no case was this assessment at the end of a term worse than had been predicted internally—though this was not revealed to the public—at the earlier moment the President had chosen to sustain and deepen the nation's involvement. Had any of them honestly expected more (except for intermittent periods)? If not—as seems likely—what does this tell us about the pressures driving these four Presidents, about their aims and motives?

To go on with Sorensen:

"But if asked why he had increased this nation's commitment, he might have summed up his stand with the words used by William Pitt when asked in the House of Commons in 1805 what was gained by the war against France: *'We have gained everything that we would have lost if we had not fought this war.' In the case of Vietnam, that was a lot.*" (Italics added.)

Specifically, that was—as John F. Kennedy had hoped in 1963 [45]—a Democratic victory in 1964, although not for himself.

It does not seem enough.

THE STALEMATE MACHINE

Although the data that have been discussed are adequate decisively to reject the Schlesinger "quagmire model" of the generation-long process of U.S. involvement, they do not point conclusively to an alternative. They do begin to suggest some answers to puzzles identified earlier, and it is time to draw these together.

What follows is a discussion of a particular "decision model"—in the form of "presidential decision rules in Vietnam crises"—that does, given actual perception and premises of Washington decision-makers, imply policy choices and executive performance conforming in considerable detail to those actually obtaining at major escalation points between 1950 and 1968. (Presidential decisions significantly escalating the nature of U.S. involvement have occurred, in fact, only in crisis situations of impending failure.) That is all I can say for it, at this point. I cannot prove, or even feel sure, that any particular President has actually seen his decision problem and constraints in just this way. Similar models but with different emphases can be equally consistent with the data; see, for example, Leslie Gelb's paper cited earlier. The same might be true for radically different approaches; however, none that I have seen or considered explains so well so many characteristics of the available data.

One of these characteristics happens to be the striking impression of the *sameness* of the bureaucratic debate, in substance, tone, and agency position, and of its relation to

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Footnotes at end of article.

presidential choice, at decision points throughout the twenty-year period. This is in itself a surprising, if subjective, datum, given the differences in circumstances—e.g., the steadily rising level of prior U.S. involvement—and in the character of the several Presidents.

The obvious differences between administrations do not, after all, seem to have made much difference in Vietnam policy; at least, so far as concerns a determination to stay in Vietnam, to do what was necessary at any given time to avoid losing, and not, at that time, much more. (As Morton H. Halperin has pointed out, this does not mean that a permutation of the sequence of actual Presidents would have made no difference at all; for example, if Lyndon Johnson—or still more, Richard Nixon—had come earlier than he actually did, escalation might well have started sooner and gone further.) This sameness suggests that a single, perhaps complex, hypothesis might cover the whole set of decisions with more validity than a set of purely *ad hoc* explanations. (To this degree, one sympathizes with Schlesinger's approach.)

In any case, it appears that an appropriate abstraction of elements of the initial 1950 decision to intervene—despite the lack of major prior commitment or involvement—fits very well all the major subsequent decisions to escalate or to prolong the war, at least through 1968 and probably beyond.

We have already seen one presidential ruling at work both in 1950 and 1961: *"This is a bad year for me to lose Vietnam to Communism."* Along with some rules on constraints (see below), this amounts to a recursive formula for calculating presidential decisions on Vietnam realistically, given inputs on alternatives, anytime from 1950 on. The mix of motives behind this judgment can vary with circumstances and Presidents, but since 1950 a variety of domestic political considerations have virtually always been present. These have been sufficient underpinning in those years when (unlike, say, 1961) "strategic" concerns were not urgent.

In brief: A decade before what Schlesinger calls Kennedy's "low-level crisis" in South Vietnam, the right wing of the Republican Party tattooed on the skins of politicians and bureaucrats alike some vivid impressions of what could happen to a liberal administration that chanced to be in office the day a red flag rose over Saigon.[6]

Starting in early 1050, the first administration to learn painfully this "lesson of China" began to undertake—as in a game of Old Maid—to pass that contingency on to its successor. And each administration since has found itself caught in the same game.

Rule 1 of that game is: *"Do not lose the rest of Vietnam to Communist control before the next election."*

But the rules do not end with that. There is also—ever since late 1950, when Chinese Communists entered Korea—Rule 2, which asserts among other things: *"Do not commit U.S. ground troops to a land war in Asia, either."*

Breaking Rule 2 (which has some further clauses) will not expose one to the charge of treason, but otherwise the political risks—loss of electoral support, loss of Congress, loss of legislative program, loss of reputation—are about the same. And many of the very same pursuers who would be howling and pointing at the scent of a violation of the first rule would be among the pack chasing a President who proposed to ignore the second.

It so happens that a factional attitude within Congress or the public of intense appreciation of U.S. stakes in a non-Communist Southeast Asia does *not* go with a willingness politically to support costly or risky or domestically unpopular measures to protect those stakes. On the contrary, it tends to be coupled precisely with a determination to oppose and punish many such measures (in company with those who do not believe the stakes are all that important), because it is typically part of a philosophy asserting such efforts to be both unnecessary—to a patriotic and resolute administration willing to rely on Asian allies and the threat or use of U.S. airpower—and dangerous to the economy.

Suppose, then, an administration fears attack by or needs the support of the particular faction that holds these attitudes (which is suspected of being able to mobilize a much larger following on these issues in a crisis). What if the President is informed that he cannot avoid enraging that faction by losing part of Southeast Asia in the near future to Communist control, except by antagonizing other major groups (and perhaps it is well) by committing troops, or mobilizing reserves, or risking war with the Soviet Union or China?

In that case, the President is in a bind. The Indochina Bind.

That dilemma is all the more certain to recur because of some other politically-derived premises that constrict policy. One of the sacred beliefs, inherited from the late 1940s, that any U.S. official must appear to share (and probably does share) is that toleration of an overt Communist Party in a less-developed country, or a provisional or coalition government including Communists, must inevitably lead to total Communist domination. Any prospects of these developments, then, are proscribed under Rule 1.

But that means that acceptable U.S. long-run aims for South Vietnam must be quite ambitious: the total exclusion from national power of the Communist Party; the assurance indefinitely of a totally non-Communist regime.

These were internally-stated U.S. goals until at least 1969; lest they appear too ambitious or interventionist, they were rarely spelled out publicly, and the public position was ambiguous. It is not clear yet—and appears doubtful—whether recent changes in public formulae correspond to genuine operational changes in the outcomes perceived as "tolerable."

U.S. intelligence analyses have generally recognized that in the face of the actual strength of the Communist Party of Vietnam, such goals could not be achieved—without major U.S. involvement indefinitely—by the sort of narrow, conservative, foreign-oriented, anti-Communist, authoritarian regime (supported mainly by Catholics, the Army, bureaucrats, and the rich) that alone among Vietnamese political elements was willing to pursue such an aim. Hence, for the long-run goal of an acceptable outcome at an acceptable cost to the U.S., civilian analysts have regularly stressed "reform" and "broadening" of the Saigon regime.

But this runs into another sort of blind. For even proponents of those political changes admit that such a "broadened" government, or even U.S. pressures to achieve it or reduce the influence of the Army, would increase to some degree the risk in the short run of "instability"—coups, chaos, military weakening, governmental paralysis—and thus quick Communist take-over. Thus any measures—U.S. "leverage," political strategies, genuinely "revolutionary" social-political approaches, broad-based regimes—to achieve such long-run aims conflict directly with Rule 1, and perhaps with Rule 2 as well. The rules have always won out.

It follows that in those periods when major U.S. policy innovations have actually been determined, long-run success at acceptable cost, if attainable at all, has been perceived to depend either on U.S. military measures that involved high domestic risks—unless they were sure to be quickly successful, which could not be guaranteed and which Presidents tend to doubt—or upon political strategies in Vietnam that posed the equally high domestic political risks of short-run instability and failure in Vietnam.

The standard resolution at such moments has been simply to turn away from long-run aims and the measures associated with them, to concentrate almost exclusively upon the aim of minimizing the short-run risk of non-Communist collapse or Communist take-overs. To this end the policy relies heavily on means that do not raise domestic apprehension and opposition, but it also includes those types of instruments "restricted" under Rule 2—their acceptability roughly in the order listed below—judged by the President minimally necessary to this short-run aim.

Rule 2 (extended): *Do not, unless needed to satisfy Rule 1:*

1. Bomb North Vietnam;
2. Commit U.S. combat troops to Vietnam;
3. Commit U.S. combat troops to Laos or Cambodia;
4. Mobilize reserves;
5. Destroy major cities in North Vietnam;
6. Institute wartime domestic controls;
7. Take major risks of war with Soviet China or Communist China;
8. Invade North Vietnam;
9. Use nuclear weapons.

Strong political inhibitions against initiating such "restricted" measures are revealed by the prolonged unwillingness of any administration to introduce any of them until needed to sustain Rule 1: i.e., to prevent defeat in Vietnam before the next election. The President himself must be persuaded that they are essential for that purpose; this is usually long after their use has been urged by others. Indeed, most of these measures have never yet been used. Although most of them have been considered or recommended at various times, often on the more-or-less plausible grounds that they were essential, or highly important, to achieving real "success," Presidents have not, in fact, been willing to adopt any one of them unless and until it was judged essential to avoiding short-run defeat: i.e. to restore a stalemate.

A general presidential tendency to preserve flexibility, or to focus on or value only short-run consequences, or to economize on means, could not explain the strength and specificity of these inhibitions. Nor have Presidents been strictly indifferent to longer-run prospects, or to the possibility of "victory." The chosen policy usually employs far more in the way of "nonrestricted" instruments than is needed merely to avoid defeat. These include: non-U.S. ground forces; commitments and assurances to allies, warnings to opponents; clandestine activities; economic and military aid; advisers; combat, logistic mobility, and air support (even to allied invasion forces).

Moreover, once a "restricted item" is first used to avoid defeat, its use may be greatly expanded in pursuit of ultimate "success"; thus, Johnson's use of U.S. ground troops in South Vietnam and bombing of "military targets" in North Vietnam and Laos, after they had been introduced in 1965 to avoid imminent defeat. Yet even in the optimistic mood of 1967 and despite the urgings of his military commanders that new means could bring a "win," Johnson resisted going further down the list—e.g., to drop all White House controls on the target list in North Vietnam, or to invade Laos or Cambodia, or mobilize reserves—in the absence of an urgent need to avert failure.

After March, 1968, de-escalation was subject to limits similar to those earlier for escalation; again, choices had the desired effect of avoiding short-run collapse, in this case, on the U.S. domestic front: in other

Footnotes at end of article.

words, once more "buying time" rather than winning or losing; buying stalemate; prolonging the war.

Many of the paradoxical features of U.S. escalating decisions as seen from the inside—the "discrepancies" noted earlier between chosen policies, on the one hand, and internal predictions, recommendations and long-run aims on the other—can thus be seen to reflect conflict between domestic political requirements on outcomes and domestic political constraints on means.

A peculiar effect of a strong domestic political ingredient in policymaking is greatly to enhance the salience and importance of short-run considerations. There are always a legislative program and presidential appointments to get through Congress this year, and Congressional elections no later than next year, even when a presidential election is not close at hand.

It so happens that in Vietnam policy alternatives have not allowed a subtle adjustment of long-term and short-term considerations, which appear in sharp conflict. The President is challenged, in effect, to pursue one or the other. Thus, the long-run aim of a self-sufficient and relatively democratic South Vietnam not entirely dominated by Communists seems to demand an approach—e.g., a regime based on Southern, civilian, nationalist, and non-Catholic religious leadership, drawing peasant and union support—that poses relatively high risks in the short run of governmental collapse or of "accommodation" to Communists. To decide that short-run interests are very important is to bias policy almost entirely toward a short-run orientation: away from such approaches as that above, whatever their long-run merits, toward policies whose only advantages lie in their higher degree of U.S. control and security against short-run "disaster."

Thus, among the consequences of applying Rules 1 and 2 to policy choices, as officials have perceived the alternatives in Vietnam, are several of the patterns observed earlier:

1. Chosen policies appear from the inside as oriented almost exclusively to short-run considerations; evidently ignoring or trading off very large differences in predicted long-run costs, risks, benefits, and probability of success in pursuit of small reductions in the short-run risk (tacitly, of "losing" South Vietnam prior to the next election).

2. Chosen programs are predicted internally to be inadequate—or at best "long shots"—either to "win" or even to avert defeat in the long run (in contrast to public statements, and to some recommended policies that pose higher short-run domestic risks).

3. Actual policies emphasize predominantly military—rather than political—means, aims, considerations, and executive responsibility, on both the Vietnamese and Americans sides, for reasons of short-run security.

4. The U.S. supports—intervening as necessary to instate or maintain—a narrow-based, right-wing, anti-Communist, "pro-American," authoritarian (since 1963, essentially military) regime in Saigon, with heavy Northern and Catholic influence: despite its inability to win wider support for long-run self-sufficiency.

All of these features combine to give American policy its peculiar appearance, seen from inside, of being dedicated to preserving a stalemate, at ever-increasing levels of violence.

Moreover, at least three other characteristics of U.S. government performance, not discussed earlier, correspond to the implications of this decision model: lack of "leverage," lying, and self-deception. Let us examine these in turn.

The notable weakness of U.S. influence on the policies, either political or military, of its principal ally—first the French and then the GVN—despite near-total dependence of the ally on U.S. support to pursue the war, follows directly from the U.S. political imperatives.

Rules 1 and 2 together led us, from 1950 to 1965, to accept the role continuously of adviser and supporter to another government carrying the responsibility for administration and fighting—even when our limited role seemed to risk imminent defeat of the non-Communist efforts. From time to time in those fifteen years, administration leaders would point out publicly of the ally we were supporting: "It is, after all, *their* fight." But these officials' private perceptions would have been better expressed: "In view of our strategic (and domestic political) interests, it is *our* fight all right, but they have got to fight it for us; because if they don't, we might have to, and that would be nearly as bad as losing."

Given the domestic political constraints embodied in Rule 1, U.S. leaders saw the avoidance of Communist take-over of all of Vietnam as of very considerable importance, both internationally and domestically. Yet for the same reasons as reflected in Rule 2, they had to hope urgently they could induce others to do the fighting, and take the responsibility for the failures and the casualties, leaving us only with the burden of dollars, material, and advice.

This "bargain"—first with the French, then with the GVN—has always seemed in danger of breaking down, facing the current administration with the loss of South Vietnam or with a necessity to take over the combat ourselves. Hence, our officials rarely felt they could afford to strain the bargain by "pressuring" our ally into fighting better or differently, or into taking political measures to which it was, in fact, adamantly opposed, even when we suspected that such changes were critical to success. In effect the U.S. had no leverage to use, despite the intelligence perception that the military-political challenge of the Communist-led forces would almost surely grow, and the ability of the ally (French, then the GVN/RVNAF) to meet it would decline, unless these changes did occur.

Meanwhile, as an essential part of the bargain with our ally—serving to keep it in power, fighting—high U.S. officials provided verbal and symbolic encouragement and evidence of U.S. concern and commitment. This came "cheap" in terms of current demands on the U.S. public. But it was making ever more certain the provision of U.S. combat forces if that became essential to holding Vietnam.

To convince the GVN (and its Vietnamese critics and rivals)—in lieu of sending U.S. troops immediately—that we would do "whatever necessary" to support them, the administration had to say so publicly, and to assert that major U.S. interests were at stake; likewise, to warn Hanoi's leaders and deter them from pressure.

On the other hand, to get sizeable enough sums of money out of Congress, these officials had to say, again, that major U.S. interests were at stake, implying that even major commitments would be justified; but at the same time suggest that there was very little likelihood that these programs would lead to U.S. combat involvement. The only way in which these requirements could be harmonized was to profess, at any given time, great optimism for the results of the GVN's performance if the U.S. aid were sent (combined with pessimism, and the prospects of major losses for the U.S. if it were not).

Here, then, is the explanation for the news management recounted earlier. Deceptive games with Congress and public are played for serious stakes. The President's resolution of the conflicting demands and constraints upon him called for suppressing any indications of possible inadequacy of the programs he proposed. The penalty for frankness could be to ally against his programs those who might conclude these were not worth attempting at all, and those who would condemn him for not doing much more. Yet the latter could be expected to oppose him if he did ask and do much more, unless he won quickly, which he did not expect; and the former would desert him if he took their advice, and lost Vietnam. Honesty, it appeared, would only earn him opposition whatever he did, and sooner than otherwise.

But in this case, internal analyses, estimates, reports, planning, recommendations, all indicated that in a whole variety of ways these programs were inadequate. Thus all these documents and opinions had to be concealed, by secrecy and deception.

In short, the public is lied to: about what the President's decision is, what advice he rejects, what he was told to expect, what he foresees and intends for the future.

When he decides to go slow and small, as in November 1961, the fact that much more was considered and recommended is suppressed lest doubts be raised on the meaningfulness of the program. James Reston's remark at the outset of the Taylor mission that Taylor was not a man who would "blithely" recommend committing U.S. combat units to a jungle war was presumably right; likewise Taylor's own comment that "any American" would be reluctant to do so "unless absolutely necessary." Nevertheless, that is what Taylor did recommend. The fact that he did so, therefore, carried an important message about the seriousness of the situation, and the prospects of the lesser course the President chose. To suppress the fact of this recommendation, as the President chose to do, was to conceal this information. And for officials to lie to reporters about Taylor's views—which were shared by Rostow and the JCS, and initially at least by McNamara and Gilpatric—was to convey the opposite, untrue impression.[47]

By the same token, when a President finally decided to go in big, the schedule and total commitment were concealed, with increments—actually programmed in advance—being announced as if based on a sequence of *ad hoc* decisions on "small steps," lest public fears be aroused on the costs of the program, and the ultimate risks and commitment. This was the nature of the "public information" program associated with the early bombing campaign against North Vietnam, the build-up of troop levels to 75,000 in the spring of 1965, and the open-ended build-up of troops to 175,000 and beyond, determined in July 1965 (the latter after an announcement of mobilization had been tentatively decided on and drafted—by me, for one—then abandoned).

One pertinent effect of this information policy was that it considerably distorted the public view, then and later, of what the President thought he was getting us into, what he thought of the chances and the relevant goals, and just what was in the inner pages of the contracts Congress and the public were being asked, implicitly, to sign.

From such a mistaken understanding of this and the other choices, bad predictions and prescriptions must follow. It leads to wrong questions and wrong inferences about presidential motives, and about what changes in his calculations and in the pressures on him might influence his choices. It could lead, for example, to the inference that "the only thing we have to fear is (presidential) hope": when, in truth, unrealistic presidential hopes were not a prominent factor in any major decisions to press onward.

Thus those who keep secret the past condemn us to repeat it.

Footnotes at end of article.

ESCALATION, PHASE B: THE QUAGMIRE MACHINE

Both of the deceptive practices noted above bear on the question: Why is the quagmire model, flawed as it is, so plausible to the public eye?

Part of the answer is that Presidents choose to foster to a misleading degree impressions that their Vietnam decision-making is subject to a "quicksand process." They do this despite a number of unfavorable implications: "inadvertence"; ignorance; inattention; lack of Presidential control; lack of realistic planning; lack of expertise; over-ambitious aims for means used; over-optimistic expectations. They choose to encourage, ultimately, these particular criticisms because either a different substantive policy or a more accurate public understanding of their actual policy seems to them to pose even greater disadvantages and risks.

All very calculated, this. But, it turns out, this posture of secrecy and deception toward Congress and the public, maintained over time, takes its internal toll. Ironically, one price is that all of the above imputed flaws and limitations increasingly do characterize the executive decision-making process. And for a number of reasons, as the chosen policy begins to be implemented, internal operational reporting, program analyses, and high-level expectations do gradually drift in the direction of the public optimism expressed constantly from the outset.

Thus real hopes—ill-founded hopes—follow hard upon the crisis choices, eventually replacing phony and invalid optimism with genuine invalid optimism.

Again, the aftermath of the November 1961 decision is typical. Schlesinger reports it well: the striking move to optimism in official expectations in 1962, a reversal which the public misread as vindication of earlier estimates.[48] U.S. combat troops, it was now appearing, had not been "essential" after all. (If the President had, indeed, suspected that earlier, he was the only one who seemed vindicated.) But no recriminations blossomed in this atmosphere; only mutual congratulations that the long shot was paying off.

Roger Hilsman reports a meeting in Honolulu in April, 1963, at which,

"General Harkins gave us all the facts and figures—the number of strategic hamlets established, number of Viet Cong killed, operations initiated by government forces, and so on. He could not, of course, he said, give any guarantees, but he thought he could say that *by Christmas it would be all over*. The Secretary of Defense was elated. He reminded me that I had attended one of the very first of these meetings, *when it had all looked so black—and that had been only a year and a half ago.*" [49]

Why the fast turn-around? For several reasons, none peculiar to this case. First, the new programs had been accompanied by new officials directed to carry them to success. Ignorant of past estimates and current realities in Vietnam, they had no strong reason to assume that the tasks they had been given were infeasible with the means at hand. And they quickly learned that Washington tended to rely on reporting up through the chain of operational command; which is to say, their performance in their jobs would be evaluated by their own reports of "progress" in their respective fields. As an American division commander told one of his district advisers, who insisted on reporting the persistent presence of unpacified VC hamlets in his area: "Son, you're writing our own report card in this country. Why are you failing us?"

Even when this did not lead to conscious dishonesty at the higher levels in Saigon, it created a bias toward accepting and reporting favorable information from subordinates and Vietnamese "counterparts," neither of whom failed to notice.

Thus, it was more mechanism than coincidence that in 1962 and early 1963,

"The strategy of unconditional support of Diem combined with the military adviser system seemed to be working—or so at least the senior American officials in Saigon assured the President." [50]

Such assurances said nothing more nor less than that the two officials themselves were "working"—succeeding—in the precise two programs they had been sent by Kennedy respectively to manage.

"Ngo Dinh Nhu made the strategic hamlet program his personal project and published glowing reports of spectacular success. One might have wondered whether Nhu was just the man to mobilize the idealism of the villages; but Ambassador Nolting and General Harkins listened uncritically to his claims and passed them back to Washington as facts, where they were read with elation." [51]

One might also have wondered—but no one even seemed to—whether Nhu was just the man uniquely to report upon "his personal project"; or whether Nolting was just the man to report the effects and value of reassuring Diem and Nhu, or Harkins the success of the military adviser system, their own respective personal projects.

But to emphasize exclusively subordinate bureaucratic influences in this process of internal self-deception would be greatly to underrate the impact of the President himself, and of his high-level appointees. They, too, like Nolting, Harkins, or Nhu, had their "personal projects," larger ones, on which they reported to those who controlled their budgets and their tenure: Congress and the public. And they too, thanks to the security system and executive privilege, "wrote their own report cards"; with a little help from their subordinates.

Precisely as at lower levels, but with enormously broader impact, the needs of the President and the Secretaries of State and Defense to use "information" to reassure Congress and the public had its effect on the internal flow of information up to the President. Reports and analyses that supported the administration's public position and could be released or leaked to that end were "helpful" and welcome, while "pessimism" was at best painful, less "useful," if not even dangerous to have down on paper. Executive values like these (vastly sharpened in 1966–1968, when skeptics and critics were louder and had to be refuted) translate into powerful incentives at lower levels to give the Chief what he so obviously wants.

Thus—granted human wishfulness, as well, as a factor at all levels—pessimism regarding an ongoing policy is a fragile, unstable phenomenon within the government. Ironically, even the VC and the GVN (earlier, the Viet Minh and French) played their role, too, in providing indicators of allied "progress" and intervals when things "seemed to be working." In 1951, 1956, 1962, and 1965, bureaucratic pressures toward optimism were catalyzed by actual effects of the new programs on allies and opponents in the desired direction. But "in the field" these effects proved very temporary, whereas our reading of them did not. As Kennedy had predicted, the effects of a "small drink" on friend and opponent faded quickly. What he may not fully have foreseen was the far more lasting afterglow in our own system.

In each case, the aftermath of escalation was an increased emphasis on military factors, and an accompanying alteration of mood from pessimism to great optimism. Thus, when U.S. combat units flooded into Vietnam from 1965 on, the pessimism of later 1964 gave way increasingly to buoyant hopes, by 1967, of an essentially military victory. But this had had its counterpart as early as 1951, after U.S. materiel and American liaison teams had made their way to Tonkin to join a failing French effort.[52]

THE QUAGMIRE MYTH AND THE STALEMATE MACHINE

Meanwhile, the Viet Minh, and later the VC, had a characteristic response to a new U.S.-GVN strategy or a scaling-up of our involvement that further encouraged our switch to unbounded optimism. After suffering initial setbacks, it has been their practice to lie low for an extended period, gather data, analyze experience, develop and test new adapted strategies, then plan and prepare carefully before launching them. (Nothing, our Vietnam experience tells us, could be more un-American.)

Since so great a part of U.S. and GVN knowledge of enemy activities comes from operational contacts, there seems to be an irresistible tendency for U.S. operators to believe that data concerning contacts reveals enemy capabilities, i.e., that lessened VC combat operations indicate lessened capability. Another mechanism, then: U.S. optimism grows during VC "inactivity"—periods when VC activities are of a sort we do not observe—reaching a peak, ironically, when extreme VC quiescence is due to intense preparations for an explosion.

Crisis periods, then, are typically preceded by high points in U.S. official expectations. Thus, peaks of U.S. optimism occurred in late 1953 (just before Dienbienphu), 1958 (when guerrilla warfare was about to recommence), early 1963 (the VC had been studying the vulnerabilities of the strategic hamlet program, and meanwhile infiltrating massively), and late 1967 (during last-minute recruiting and preparations for the Tet offensive, including feints at the borders).

If a fever chart of U.S. expectations—say, anticipations of success—could be drawn meaningfully for the last twenty years, it would have a recurrent saw-tooth shape: an accelerating rise of optimism just before an abrupt decline (Figure I is a conceptual sketch of such a graph). Our perceptual and emotional experience in Vietnam can be regarded as a sequence of two-phase cycles, in which Phase B—optimism—evolves causally in large part from decisions that follow Phase A, a crisis period of pessimism.

(The B-phases in Figure 1 have been drawn with a reverse S-shape, signifying three subphases: an initial period in which the VC suffer real reverses and the GVN stabilizes on the basis of new programs; then a period in which, in reality, the VC have adapted and the GVN is declining, but U.S. expectations remain at a plateau rather than being reduced; finally, the VC begin quietly preparing for a major offensive, causing U.S. hopes to soar.)

If major escalating decisions qualitatively increasing our involvement had actually been made during Phase B's, that would be the quagmire model. It has never been the case.

However, during the B-phases, although no new major policies or commitments are introduced, U.S. aims may change significantly in the atmosphere of optimism, especially in the last stage, going beyond the avoidance of defeat—dominant aim in Phase A and the early Phase B stage—to achieving a victory. At the same time, real optimism leads officials to be much less cautious in public aims and predictions; to give commanders more leeway; to monitor operations less closely; and to indulge in operations that are costly (in many terms) and of low effectiveness but may speed the coming win. All of these responses lead to toleration of rapidly rising costs, and hence to a feeling, when a new crisis brings the return of Phase A, that the stakes, the investment, the commitment have become still higher than before, the need to avoid "defeat" being now even greater.

Nevertheless, this post-escalation euphoria, or "quagmire phase" of the cycle seems to

Footnotes at end of article.

play no essential role in the escalation process. It simply reinforces the presidential tendency to escalate if and as necessary to avoid a short-run "defeat" or "loss of all Vietnam to Communists." As Leslie Gelb has put it: "Each administration was prepared to pay the costs it could foresee for itself." Political, along with strategic, motives underlying that tendency were already strong enough in 1850 to induce the initial U.S. commitment without any prior or current period of American optimism. And they almost surely were felt strongly enough in subsequent years to have induced much greater escalation than occurred if that had appeared both necessary and effective in the short run.

Consciously oriented as escalating decisions actually were, when chosen, to the defensive aim of averting short-run Communist takeover, *each of these decisions of the past two decades can be said to have achieved its initial, internal aim.*

In Gelb's phrase: "The system worked." In fact, these presidential policies and tactics, in sequence, had the effect of holding South Vietnam out of Communist hands "cheaply"—i.e., without sizeable numbers of U.S. combat troops—for fifteen years, from 1950 to 1965.

Whether efforts and sacrifices, by Americans and Vietnamese, of even these limited but increasing magnitudes could easily have been justified to various parts of the electorate in terms of such limits aims—in starkest terms, the restoration of stalemate, and the postponement of a possible Communist take-over in Vietnam beyond the date of the next U.S. election—is another question. No administration chose to find out. To publicize more idealistic or strategically decisive goals, as they all did, was to forego credit for meeting successfully the limited short-run objectives that each—it is inferred here—privately accepted. More seriously, it was to incur the likelihood of suffering an appearance of recurrent failure of programs to meet their announced aims, and failure of administration predictions or "hopes" to be confirmed. But these impressions of failure, however embarrassing politically, each administration since 1950 has preferred either to the risks of candor on its private aims and expectations or to the risks of accepting the "loss of Vietnam" during or soon after its term in office.

In these respects, too, the policies "worked." Until 1968, at least, each President avoided the kinds of political costs related to Vietnam that his tactics were meant to avert. In fact, up to the present, no President has had to face a political penalty for losing South Vietnam. Not even LBJ will be blamed in history for that, although he is blamed for other things.

Yet the earlier "cheap victories," year by year from 1950 to 1965, were purchased at a long-term price, one not yet paid in full. Presidential policies and tactics actively sustained and encouraged over that period a high estimate of U.S. strategic stakes in the conflict within the U.S. executive branch and the military, the Congress, and the public. Meanwhile they failed—as was highly likely, in the light of earlier internal estimates—either to strengthen adequately non-Communist Vietnamese efforts; to modify Communist aims; to deter or prevent an increase in Communist capabilities; or, of course, to induce the acceptance by Hanoi's leaders or revolutionary forces in South Vietnam of the U.S. role, presence, or aims in South Vietnam, or of the U.S.-supported Saigon regime.

Thus these presidential policies and tactics locked together with these other factors to produce, from the perspective of most of that fifteen-year period, *a high probability that U.S. troops would end up fighting in South Vietnam, and U.S. planes bombing throughout Indochina: i.e., high probabilities that they would be sent if necessary; and that they would be necessary.*

This is the future that three U.S. Presidents failed to resist: indeed, knowingly cooperated with and prepared. Not, of course, that any President liked, wanted, or hoped for the darker developments that actually emerged—the deaths, the costs, the disruptions—only that they preferred the risk of these, and later the certainty, to certain, other prospects they saw as alternatives. Thus the first three Presidents determined the reality of large-scale war that the next two accepted and sustained. That is a generation of Presidents: all the Presidents within the lifetime of a recent college graduate.

Will the tradition end with the current President? How many more could it encompass? Nothing in the generalizations we have abstracted in this paper from experience of the last two decades gives a clear hint of a definite breaking-point, or a foreseeable change in basic motives and values either for the Communist-led forces or the U.S. government. On its face, that is simply a limitation of the analysis, a characteristic—perhaps a defect—of the model suggested.

Or perhaps it is a property of reality.

If so, it is a human and political reality, and humans can, in principle, change it. But change would not be easy. Rule 1 has deep roots in politicians' fears and motives, and in public responses, that have been powerfully influential for twenty years, through some hard times and challenges. There is little indication yet that it will not speak commandingly to Presidents after this one. (Of its authority for the present one, there can be no real doubt.) [53]

Improved Presidential foresight—even the awareness that might be attained from this analysis—would not probably supersede Rule 1. If anything, it might serve to relax the constraining influence of Rule 2.

In the spring of 1965 President Johnson is reported to have received calls almost daily from one of his closest advisors telling him (what no one had to tell him): "Lyndon, don't be the first American President to lose a war."

It is true that such advisers omitted warnings of other deadly errors. They neglected to caution him: "Don't, over more than one or two years, lie to the public; or mislead and bypass Congress; or draft and spend and kill and suffer casualties at the rate your military will propose; or abort negotiations; or, even once, allow your generals to describe the enemy as defeated on the eve of their major offensive." [54]

But if they had, and if he had seen the cogency of their warning: Would he then have decided to lose the war? Or would he, mindful of the time constraints, have acted to win it within them?

The same question applies to earlier presidents; and later.

THE FACES OF THE QUAGMIRE

Why is the quagmire model so often pressed? And why is it so widely accepted?

Looking at where their policies and tactics have brought us so far, it is easy to understand why the past four Presidents would want, before and after, to conceal and deprecate their own foreknowledge and intentions.[55] And it is no harder to guess why—perhaps unconsciously—participant-observers of one of these administrations or another have promoted the same interpretation of foresight and purpose, values and priorities, influence and responsibility, respecting their past colleagues within and outside government. Indeed, they make no secret of the conclusion they wish to convey by the quagmire metaphor and model concerning the responsibility of individuals and groups.

Thus, Townsend Hoopes, acutely and perceptively critical of the policies under Johnson and earlier Presidents, extends what Richard Falk has called "the circle of responsibility" widely indeed, in explicit purpose to relieve the burden of those seemingly at its center. Traumatized by a lunch with two reporters from the *Village Voice* who suggested that he himself, as Assistant Secretary of the Air Force under Johnson, might have been guilty of war crimes (their subsequent article was titled: "The War Criminals Hedge Their Bets"), Hoopes has published several rejoinders and discussions of the problem of responsibility. In the first of these, after describing his chief concern in the disturbing luncheon conversation as having been "The broad question of how the *entire nation* had stumbled down the long slippery slope of self-delusion into the engulfing morass," Hoopes concludes:

"The tragic story of Vietnam is not, in truth, a tale of malevolent men bent upon conquest for personal gain or imperial glory. It is the story of an entire generation of leaders (and an entire generation of followers). . . . [Johnson's] principal advisers were, almost uniformly, those considered when they took office to be among the ablest, the best, the most humane and liberal men that could be found for public trust. No one doubted their honest, high-minded pursuit of the best interests of their country, and indeed of the whole non-communist world, as they perceived those interests." [56]

Arthur Schlesinger, Jr., less generous in his appreciation of some civilian Johnson lieutenants, is no less reluctant to single them or their Chief out as "guilty" in any special way for their role in our vast national undertaking. In the "quagmire" (literally, "morass") passage so often cited in this paper, he asserts:

"It is not only idle but unfair to seek out guilty men. . . . we find ourselves entrapped today in . . . a war which no President, including President Johnson, desired or intended. The Vietnam story is *a tragedy without villains*. No thoughtful American can withhold sympathy as President Johnson ponders the gloomy choices which lie ahead." [57]

One can read some of these passages as reflections of the sentiment Hoopes expresses: "What the country needs is not retribution, but therapy. . . ." (It is just possible that both are needed, at this point, in the interests of our country and of others.) He completes the sentence, plausibly, "therapy in the form of deeper understanding of our problems and of each other"; but in all of these passages and the larger arguments in which they are embedded, one senses that the drive for sympathetic therapy is setting back the cause of understanding.

Both the substance of the tentative conclusions in this paper, and my experience of the heuristic process that gradually pointed toward them, warn that a deeper analytical understanding of these well-guarded data and controverted events will not be likely to be reached by a searcher committed and determined to see the conflict and our part in it as "a tragedy without villains": war crimes without criminals, lies without liars, a process of immaculate deception.

The urge in these former officials to defend American institutions and legitimate authority (and surely some former administration leaders and colleagues, if not themselves) from the most extreme charges and sanctions ("Lyndon Johnson, though disturbingly volatile," Hoopes remarks, "was not in his worst moments an evil man in the Hitlerian sense") leads them as analysts to espouse and promulate a view of process, roles, and motives that is grossly mistaken—as should be known to them from their own experience and access to information as officials.

Thus, an effort to defend against perceptious or charges of "immorality," in alleged pursuit of "objective judgment," leads in this case to historical and analytical error. And it has political consequences: It underwrites deceits that have served importantly a succession of Presidents to maintain sup-

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Footnotes at end of article.

port for their substantive policies of intervention in Vietnam.

Of course, to promulgate a view is not necessarily to have it accepted. But this one has a powerful appeal. Earlier we asked, "Why is the quicksand model accepted by so many?" and offered some cognitive answers. But we can suspect that an image speaks to deeper, more emotional concerns when it is presented regularly in the broad strokes of political cartoons in mass-circulation newspapers. That is what happened on the nation's editorial pages during the Cambodian invasion.

That week, while photographs on the front page showed unwonted images of blitzkrieg—tanks in formation driving across fields trailing plumes of dust, and locust swarms of American armed helicopters moving across new borders—and while reporters offered verbal pictures of the Cambodian village of Snoul being destroyed and looted, the drawings on the editorial pages were of Uncle Sams and GI Joes engulfed, bemused, floundering from a swamp marked "Vietnam" to one marked "Cambodia." Images, curiously, of impotence, passivity: ironically contrasting both with the news and the photographs of what Americans in southeast Asia were actually doing and with the President's announced intent to expunge notions of America as a "pitiful, helpless giant."

One cartoon, reproduced in *Time*, left the quagmire symbol to show the "U.S. citizen" in tatters on a raft, confronting three enormous, wide-mouthed whales, labelled: "Vietnam," "Cambodia," and "Laos."

Whales?

The imagery, pressed too far, reveals its key. The scale, and the menace, have simply been reversed. The actual role of America and Americans in and toward Indochina is distorted, to a staggering degree, in the very process of suggesting that it be reconsidered.

Looking back to the quicksand cartoons, one sees their self-pity, their preoccupation with Uncle Sam's predicament, and one finally asks: Where are the Asians? Where are the Cambodians, the Lao, the Vietnamese in these drawings?

Presumably—there is no other sign—they are the particles of the bog, bits of the porridgey quagmire that has seized GI Joe and will not free him. . . .

It is not, after all, only Presidents and Cabinet members who have a powerful need and reason to deny their responsibility for this war. And who succeed at it. Just as Presidents and their partisans find comfort and political safety in the quicksand image of the *President-as-victim*, so Americans at large are reassured in sudden moments of doubt by the same image drawn large, *America-as-victim*. It is no more real than the first, and neither national understanding nor extrication truly lie that way.

To understand the process as it emerges in the documents behind public statements, the concerns never written that moved decisions, the history scratched on the minds of bureaucrats: to translate that understanding into images that can guide actions close-related to reality, one must begin by seeing that it is Americans, our leaders and ourselves, that build the bog, a trap much more for other victims: our policies, our politics the quagmire in which Indochina drowns.

FOOTNOTES

* This article is part of a larger study of "mechanisms" and perceptions that have shaped American involvement in Indochina, now in progress at the Center for International Studies, Massachusetts Institute of Technology. My particular debt to Leslie Gelb is acknowledged below (see footnote 26). I have also benefitted greatly by discussions with Morton Halperin and Richard Moorsteen.

An earlier and longer version of this paper, entitled "Escalating in a Quagmire," was delivered at the Annual Meeting of the American Political Science Association, Los Angeles, September 12, 1970. This abridgement does not fully reflect the many valuable comments elicited by a wide informal distribution of that version.

[1] Lucien Bodard, *The Quicksand War: Prelude to Vietnam* (Boston: Little, Brown, 1967), which combines, somewhat abridged, translations of *L'Enlisement* (Paris, 1963) and its sequel, *L'Humiliation* (Paris, 1965).

[2] David Halberstam, *The Making of a Quagmire* (New York: Random House, 1964).

[3] Arthur Schlesinger, Jr., *The Bitter Heritage* (rev. ed.; New York; Fawcett World, 1968), p. 47.

[4] The assertions and speculations below on U.S. decision-making reflect the writer's experience as Special Assistant to the Assistand Secretary of Defense (ISA), August 1964 to August 1965; member of General Lansdale's Senior Liaison Office in Vietnam, August 1965 to December 1966; Special Assistant to the Deputy Ambassador, Saigon, December 1966 to June 1967; and research since that time, in part as a consultant, with official access. All of these functions posed the responsibility and opportunity to learn data on earlier decision-making. Unsatisfactory as it is to present generalizations and assertions without specific citation, it seems less so than either to rely entirely on the public record or to pretend to do so, to forego generalizations or to subscribe to wrong ones.

[5] Schlesinger, *op. cit.*, p. 39; italics added.

[6] *Ibid.*, p. 17; italics added. It is only because this statement of a familiar point of view is so explicit, and because his own factual testimony is critical to refuting it, that Arthur Schlesinger, Jr.—who has elsewhere said many cogent and useful things about our Vietnam involvement—is so often cited in this paper in such a way as to appear inadvertently as a whipping boy.

[7] See Schlesinger's accurate description of the exuberant mood in that year, going into 1963: *op. cit.*, pp. 41, 42; and see the discussion below of the causal mechanisms by which optimism follows from escalation.

[8] The same is true of a more recent formulation by Schlesinger, which focuses specifically on military promises and responsibility. "At every stage of our descent into the quagmire, the military have played the dominant role. . . . At each point along the ghastly way, the generals promised that just one more step of military escalation would bring the victory so long sought and so steadily denied." *See Partisan Review*, XXXVII (No. 4, 1970), 517.

[9] *New York Times* (October 16, 1961; story datelined October 15). All newspaper stories cited in this section are from the *New York Times;* dates are dates of publication of stories (generally datelined a day earlier). All italics added.

[10] *New York Times* (October 26, 1961).

[11] As we shall see, he had recommended it formally by cable two days earlier, to no one's very great surprise.

[12] Schlesinger, *op. cit.*, p. 39; italics added.

[13] Arthur Schlesinger, Jr., *A Thousand Days* (Boston: Houghton Mifflin, 1965; page references here are to the paperback edition, New York: Fawcett World, 1967), p. 504.

[14] Theodore Sorensen, *Kennedy* (New York: Harper and Row, 1965), p. 653.

[15] Schlesinger, *A Thousand Days, op. cit.* p. 501.

[16] *Ibid.*

[17] *Ibid.*, p. 505.

[18] W. W. Rostow, "Guerilla Warfare in Underdeveloped Areas," in T. N. Greene (ed.), *The Guerilla—And How to Fight Him* (New York: Praeger, 1962), p. 60.

[19] Letter from President Johnson to Senator Henry M. Jackson, quoting the "Taylor Report," *New York Times* (March 3, 1967); cited in Chester L. Cooper, *The Lost Crusade* (New York, 1970).

[20] Sorensen, *op. cit.*, p. 652.

[21] It is not clear that this was true of Rusk at this time.

[22] Sorensen, *op. cit.*, p. 653.

[23] *Ibid.*, p. 652.

[24] Schlesinger, *The Bitter Heritage, op. cit.*, p. 39.

[25] *Ibid.*

[26] Leslie H. Gelb, "Vietnam: The System Worked," revised version of a paper delivered at the Annual Meeting of the American Political Science Association, Los Angeles, September 1970, to be published in a forthcoming issue of *Foreign Policy:*

I am happy to acknowledge great stimulation from discussions with Gelb—now at the Brookings Institution, formerly an acting Deputy Assistant Secretary of Defense (ISA)—whose studies of the earlier periods preceded my own and who in particular pointed out that the propositions emerging from my study of 1961 and my experience in 1964–1965 applied as well to decisions going back to the 1940s and 1950s.

[27] This is what Hilsman claims Kennedy did with the proposal to send combat forces in 1961. "In an interesting example of one type of gambit in the politics of Washington policy-making, the President avoided a direct 'no' to the proposal for introducing troops." See Roger Hilsman, *To Move a Nation* (Garden City, N.Y.: Doubleday, 1967). p. 124. Such a tactic could account for the success of efforts to keep secret the Taylor/JCS recommendations to send troops. The hope of still persuading the President would discourage leaks among proponents of the measure.

[28] Norman Graebner, *The New Isolationism* (New York: Ronald Press, 1956), p. 45.

[29] Arthur H. Vandenberg, Jr. (ed.), *The Private Papers of Senator Vandenberg* (Boston: Houghton Mifflin, 1952), p. 536.

[30] *Congressional Record—House*, (January 25, 1919), pp. 532, 533.

[31] Graebner, *op. cit.*, p. 28.

[32] Alan D. Harper, *The Politics of Loyalty* (Westport: Greenwood, 1969), p. 133.

[33] Graebner, *op. cit.*, p. 15.

[34] *United States Relations with China, with Special Reference to the Period 1944–1949* (Washington, D.C.: Government Printing Office, 1949), p. xvi.

[35] Dean Acheson, *Present at the Creation* (New York: Norton, 1969). p. 303.

[36] Vandenberg, *op. cit.*, p. 532; italics in original.

[37] See Harper, *op. cit.*, chaps. 5 and 9; and Graebner, *op. cit.*, chaps. 3 and 5.

[38] In addition to those cited, see in particular Tang Tsou, *America's Failure in China, 1944–50* (Chicago: University of Chicago Press, 1963); H. Bradford Westerfield, *Foreign Policy and Party Politics* (New Haven: Yale University Press, 1955); and Earl Latham, *The Community Controversy in Washington* (Cambridge, Mass.: Harvard University Press, 1966). And look again at the 1949 quotation presented earlier from John F. Kennedy.

[39] This last evaluation—unchallengeable bureaucratically by prudent rules of the game since 1950—leads directly to the logic of the Desperate Proposal Pattern. To avoid an "intolerable" (infinitely negative) outcome, any measure with *some* chance of success is justified, no matter how low its probability of success, or how high its cost and risks. Hence no need to report or even calculate the latter characteristics: enough to say that, unlike current policy, the one proposed is not *certain* to fail.

[40] Acheson, *op. cit.*, p. 350; italics added.

[41] Westerfield, *op. cit.*, p. 358.

[42] "LBJ and the Kennedys." *Life* (August 7, 1970). Mansfield was subsequently quoted in interviews as confirming in substance.

[43] Derek Shearer, "Kissinger Road Show: An Evening with Henry," *The Nation* (March 8, 1971). 297, reporting on an off-the-record meeting with Kissinger at Endicott House, January 29, 1971. The quotation is accurate, although the political judgment seems highly dubious. It was for this reason, Kissinger

explained, that the pace of "withdrawal" had been slow, although "We are ending the war . . . the war is trending down, and it will continue to trend down. . . ." (Unknown to his audience because of a news embargo, the bombing of Laos had been stepped up that evening to a near-record level, preparatory to invasion.)

[44] Sorensen, *op. cit.*, p. 664; italics added.

[45] According to his White House Chief of Staff, O'Donnell.

[46] This lesson was implanted so powerfully between 1949 and 1954 that some special circumstance of that period, limiting its future validity, may well have been overlooked. Thus, Truman's startling victory in 1948, prolonging almost by accident what was already a sixteen-year Democratic reign, not only assured that Democrats would still be in office for the fast-approaching victory of Communists in China, but assured that this vulnerability would be exploited to the hilt, and beyond, by the madly frustrated Republicans. For a provocative discussion of this thesis, see Latham, *op. cit.*, pp. 5–7, 416–423.

Fear of McCarthy's and McCarthyism's power at the polls may always have been overdrawn, even in 1950–52, and still more so today. See Michael Paul Rogin. *The Intellectuals and McCarthy*, (Cambridge, Mass.: M.I.T. Press, 1967). Yet what matters, of course, is what Congressmen and officials believe their risks to be, and what risks they are willing to take. (See the citation of Kissinger earlier.)

[47] To my knowledge, no other paper challenged the *Times*, or the administration, on these versions of Taylor's advice. Nor did any different version appear until the appearance in 1965 of the Schlesinger and Sorensen histories, neither of which drew attention to the fact that they directly contradicted all newspaper stories of the time and subsequent accounts. See, for example, the comments in Robert Shaplen, *The Lost Revolution* (rev. ed.: New York: Harper and Row, 1966), pp. 153, 154; or in David Halberstam, *op. cit.*, p. 67: "Above all else, Taylor wanted to keep American combat troops out of the Vietnamese jungles."

So much for the belief, widely held in some circles and encouraged by the government, that "everything comes out in the *New York Times*. . . . There are no real secrets," and that the *Times* is an adequate basis for understanding an ongoing or past decision-making process within the Executive Branch.

[48] See Schlesinger, *A Thousand Days, op. cit.*, p. 508, and *The Bitter Heritage, op. cit.*, pp. 11, 12.

[49] Hibsman, *op. cit.*, pp. 166, 167; italics added.

[50] Schlesinger, *The Bitter Heritage, op cit.*, p. 40.

[51] *Ibid.*

[52] See Senator John F. Kennedy's speech in 1951, cited in Schlesinger, *The Bitter Heritage, op. cit.*, p. 27, on official optimism underlying a Truman-Eisenhower "credibility gap" in Indochina.

[53] The discussion has gone only through 1968; no attempt is made here to apply the conjectures and generalizations of this paper to the statements and actions of the current administration. That is left as an exercise to the reader.

Nothing in the past attitudes and history of the current President, or any of his public statements or official actions so far in office suggests in any way that these generalizations should be less applicable to him than to any of his predecessors; thus this extrapolation should be a fair test. One might, for example, address the question: Which year between now and 1977 might Richard Milhous Nixon consider an acceptable one, for him, to lose South Vietnam to Communist control?

For my own views, see my article, "Murder in Laos: The Reason Why," *New York Review of Books* (March 11, 1971). 13–17: "Like Kennedy and Johnson before him, Richard Nixon believes he cannot hold the White House for a second term unless he holds Saigon through his first."

[54] No advisor is perfect. There are things Presidents have to learn for themselves. One supposes no one told President Nixon before the event: "Don't condone the shooting of white students by National Guardsmen just after crossing a national border with troops without consulting Congress, the public, or the country invaded."

[55] No event, and no presidential decision, of course, occurred because it "had" to, in any sense of certainty or absolute determinism. What does? On the other hand, in every major case, from the perspective of existing inside knowledge and opinion years earlier, what actually occurred in the way of presidential decision and of resulting developments in Vietnam would have seemed the way to bet.

[56] Townsend Hoopes, "The Nuremberg Suggestion," *Washington Monthly* (December 1969), italics added; reprinted, with reply, in "The Hoopes Defense," by Judith Coburn and Geoffrey Cowan (authors of the original article referred to above, *Village Voice*, December 4, 1969), *Village Voice* (January 29, 1970). See also the cogent comment by lawyer Peter Weiss (with reply by Hoopes), *Washington Monthly* (June 1970, 1–8).

In none of his comments (nor in his later *Foreign Affairs article*, "Legacy of the Cold War in Indochina" July 1970) does Hoopes dissent from this earlier general evaluation of the aims and values of the Johnson advisors, although it would seem fair to re-examine these on the basis of their official performance as it becomes increasingly known; and on their sense of social responsibility for events, shown after leaving office.

[57] Schlesinger, *The Bitter Heritage, op. cit.*, pp. 17, 18; italics added. Schlesinger's more recent comments, quoted earlier—"At every stage of our descent into the quagmire, the military have played the dominant role. . . . At each point along the ghastly way, the generals promised . . ."—do, of course, add villains to the tragedy, although not civilian ones. If he no longer thinks it idle to seek out guilty men, he has nevertheless managed to be unfair.

Transcript of Ellsberg Interview on TV

Following is the transcript of an interview with Dr. Daniel Ellsberg by Walter Cronkite on the C.B.S. Television 7 P.M. news program last night, as recorded by The New York Times:

Dr. Ellsberg. The fact is that in the 7,000 to 10,000 pages of this study I don't think there is a line in them that contains an estimate of the likely impact of our policy on the over-all casualties among the Vietnamese or the refugees to be caused, the effects of defoliation in an ecological sense, nor a calculation of past offense ever, and the documents simply concern the internal concerns, reflect the internal concerns of our officials. That says nothing more nor less than our officials never did concern themselves in writing and I think in no informal way either, with the effect of our policies on the Vietnamese.

I was struck by the cover of Newsweek here. I refer to this super-history of Vietnam—a map of Vietnam with the faces of important people who effected that secret history of Vietnam. You notice they are all Americans. Every one of them. That reflects accurately the way the history of Vietnam emerges from those studies—that is, from the internal documents of the United States.

Was "part of system"

It affects the way the Vietnam War is seen from Washington, as to who matters and who doesn't. And there is great realism to that, actually. As I say I'm familiar, I was part of that system. I know how that's looked at. There's realism to that.

The war has been an American war and there is certainly realism to the way that it's been reflecting the actual attitudes of the people who make decisions.

Nowhere in those cables or estimates, I think outside of memos by a few people, General Ansfield being one, I think, will the public find when they read these Vietnamese leader described with concern, friendship, respect or evaluated in any terms other than as an instrument of American policy.

The Vietnamese leaders with whom we've been dealing unfortunately have the character that they tend to see themselves that way and the other Vietnamese know it.

As for Vietnamese who aren't leaders, they're not in the study at all. They're just not there. Only this side and that's a large part of what's been wrong.

I came back then with this sense, an additional sense, of concern then about what we were doing to the people of Vietnam as well as what was happening to this country, a concern that many people shared by '67 and '68.

By '68 I had read most of this study, written in a draft for one volume of it and well, can you imagine yourself what you'd feel like to have read those 7,000 pages judging from the 1,000 or so you've seen summaries of so far? And reading the news to the public every night, not able to tell them of the existence of the study or what it was you'd read.

Felt very concerned

I've been reading about myself obviously in these accounts and it's—some of it's—almost amusing, the inferences of my being very tortured by guilt. Actually I had to say I didn't feel guilty for things that I'd done in Vietnam. I felt very concerned. I felt that the knowledge gave me a kind of responsibility that others didn't have.

A very simple explanation came to me as to the impression I apparently have been giving to people over the last year is that I read this history, I read all of it and I've read it several times. I think it obviously led me to kinds of activity against the war publicity.

It was simply very baffling to my colleagues, none of whom had read the study, almost none of whom knew of its existence or the fact that I had read it.

I think maybe they'll understand some strange things about my intensity that they describe a month from now. I hope we'll see some more intense involvement in ending this war.

I'm sure this story is more painful for many people at this moment than for me, because, of course, it is familiar to me having read it several times, but it must be painful for the American people now to read these papers—and there's a lot more to come—and to discover that the men whom they gave so much respect and trust as well as power regarded them as contemptuously as they regarded our Vietnamese allies.

Cronkite. It's a black history as it's been drawn so far. Are there any heroes in it?

Mylai soldier a hero

Ellsberg. I think that a man I read about named Bernard who put his rifle down to the ground at the risk of his life and refused the orders of his superior commander to fire at civilians at Mylai. He's a hero.

Cronkite. You don't find them on a higher level?

Ellsberg. That's a hard question you've asked me. I hate—I hate not to find it easy to answer. I hate as an American not to find it easy to answer. Looking at the record it seems hard for me to find men who have lived up to the responsibilities of their office in terms of not only of what they did but of what they could have done, what they should have done, given their feelings.

CRONKITE. What would you expect to be revealed from the documents that might come out in future days or weeks? What's still back there that we can look forward to?

ELLSBERG. Well, I think that the real lessons to be drawn are yet to be seen by the public, and they're not from any one period or any one episode. They really come from seeing the whole sweep of the history.

There's never been in a year when there would have been a war in Indochina with American money fueling it. The perception that I had, just like most people in the country, that this was in some sense an ongoing war which we had joined for good or bad, screened out many of the moral aspects of the conflict, and to discover on the contrary that in Indochina if we had not been supplying money and the napalm and buying soldiers and equipment and finally supplying our own soldiers there would have been violence, there would have been violence among non-Communists, among the sects, political violence, there would have been assassinations, raids, some degree of guerrilla action, Communists against other Communists, the Trotskyites were wiped out by other Communists in Saigon in '45, there wouldn't have been anything that looked like a war, and to say that is to say that Americans now bear major responsibility, as I read this history, for every death in combat in Indochina in the last 25 years, and that's one-million to two-million people.

HUNGRY CHILDREN

Mr. McGOVERN. Mr. President, the Senate action Tuesday, approving the conference report on H.R. 5257, is a resounding victory for hungry children. Although introduced and passed without much fanfare, these amendments to the child feeding programs represent a great step forward.

The legislation approved will permit the Secretary of Agriculture to use $35 million this year, and $100 million next year from the section 32 funds to meet the rapidly growing needs occurring in the child nutrition programs. It extends the breakfast program for needy children for 2 years at an authorization of $25 million each year, provides for a national eligibility standard, and self-certification as presently exist in the national school lunch program. It provides for more generous financing provisions for schools operating the breakfast programs, including the authority for the Secretary of Agriculture to pay all the operating costs in especially needy schools. It authorizes the Secretary to use $20 million in section 32 funds to support the supplemental food program which provides highly nutritious foods to pregnant women, new mothers, and their young children. It permits the local contribution of poor school districts to the cost of nonschool food assistance to be made either in cash or in kind.

Many of the provisions of H.R. 5257 particularly pleased me because they were contained in proposals that I and Senators HART and HUMPHREY had made earlier in the year.

I have refrained from mentioning the impact of the bill on the program which has caused the greatest concern to the cities just this week and last: the special food service program. This is the program in which needy children receive nutritious meals during the summer in schools and other institutions not directly attached to schools. It is a program which has realized remarkable expansion in the few years that it has existed, reflecting the concerns of the cities that children be fed whether or not their schools happen to be in session.

It would seem that the Department of Agriculture shared their concern earlier this year when they repeatedly urged the cities to expand their summer feeding programs over last year. But it appears that concern evaporated when the Department learned it must provide the money to meet the commitments that had been made across the country. Despite the fact that programs everywhere have expanded, the USDA has steadfastly refused to request additional money for fiscal year 1972, over the money that they spent for substantially smaller programs last year.

Now both Houses of Congress have made very clear their message to the USDA. Because the authorization/appropriation process began before it was learned that the administration request could not possibly meet this year's needs out of last year's money, the bill specifically provides for $32 million for the special food service program for next year, an increase of only $12 million. But even that amount would only be able to fund the requests of the cities for programs during July and August. In order to support the year-round programs which also come under the authority of section 13, additional money will be necessary. A more realistic year-round cost figure would be $45 million. To provide the difference between $32 and $45 million, the Congress has authorized the Secretary of Agriculture to use up to $135 million in section 32 funds.

The Department of Agriculture has announced that despite its own conservative estimates showing $26,600,000 in requests just for July and August, it would not operate on a budget item of greater than $20,700,000 for fiscal year 1972. It would instead transfer $11,225,000 of section 32 money, and presumably only that amount despite the instructions of the Congress. Because the Congress has made its desires so very clear with respect to the special food service program, and because the Department of Agriculture has so openly ignored that, the Select Committee on Nutrition and Human Needs, which I chair, has invited the mayors of Newark, Detroit, and Baltimore to testify at an emergency hearing on Friday of this week. I have also invited administration officials to explain their positions. As yet, they have not accepted my invitations.

A special note of commendation is due to the able chairmen of the conference committee: Senator HERMAN TALMADGE and Congressman CARL PERKINS. Without their prompt and responsive leadership on these matters, the coming year would not be so bright for needy children. Once again they have demonstrated their commitment to ending hunger in America. The members of the conference are to be applauded for their actions. I wish particularly to mention the great contribution made by the gentleman from Illinois (Mr. ROMAN PUCINSKI).

Mr. President, at this time I ask unanimous consent to have printed in the RECORD the USDA listing of known requests for special food service program funds during July and August, as well as my correspondence with the Department of Agriculture when the funding crisis in this program was first made known.

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

SUMMER (JULY–AUGUST 1971) FEEDING PROGRAM UNDER THE SPECIAL FOOD SERVICE PROGRAM INDICATED COST AND DEFICIT BY STATES

State	Indicated cost		
	Initial [1]	Supplemental [2]	Total
Northeast:			
Connecticut	52,000		52,000
Delaware	22,400		22,400
District of Columbia	1,214,000		1,214,000
Maine	78,180		78,180
Maryland	790,222		790,222
Massachusetts	199,507		199,507
New Hampshire	7,216		7,216
New Jersey	380,000		380,000
New York	1,897,000	2,250,000	4,147,000
Pennsylvania	1,305,322		1,305,322
Rhode Island	26,031		26,031
Vermont	2,419		2,419
West Virginia	152,320		152,320
Total	6,126,617	2,250,000	8,376,617
Southeast:			
Alabama	25,000	520,000	545,000
Florida	590,000		590,000
Georgia	1,360,000		1,360,000
Kentucky	121,588		121,588
Mississippi	172,931		172,931
North Carolina	270,000		270,000
Puerto Rico			
South Carolina	189,984		189,984
Tennessee	800,000		800,000
Virginia	810,000		810,000
Virgin Islands	0		
Total	4,339,503	520,000	4,859,503
Midwest:			
Illinois	1,908,080		1,908,080
Indiana	75,078		75,078
Iowa	90,000		90,000
Michigan	636,600		636,600
Minnesota	77,558		77,558
Missouri	393,148		393,148
Nebraska	83,732		83,732
North Dakota	5,800		5,800
Ohio	181,759		181,759
South Dakota	30,000		30,000
Wisconsin	84,000		84,000
Total	3,565,755		3,565,755
Southwest:			
Arkansas	27,370		27,370
Colorado	320,000		320,000
Kansas	11,000		11,000
Louisiana	647,900	525,000	1,172,900
New Mexico	45,336		45,336
Oklahoma	168,000	420,000	588,000
Texas	115,000		115,000
Total	1,334,606	945,000	2,279,606
Western:			
Alaska	0		
Arizona	46,434		46,434
California	5,082,130	2,000,000	7,082,130
Guam	7,260		7,260
Hawaii	6,000		6,000
Idaho	15,373		15,373
Montana	5,236		5,236
Nevada	11,857		11,857
Oregon	70,500		70,500
Samoa American			
Utah	18,500		18,500
Washington	208,896		208,896
Wyoming	3,050		3,050
Total	5,475,236	2,000,000	7,475,236
Total	20,841,717	5,715,000	26,556,717

[1] Submitted by deadline date of May 21, 1971.
[2] Submitted between May 22 and June 18, 1971.

Hon. CLIFFORD M. HARDIN,
Secretary, U.S. Department of Agriculture. Washington, D.C.

DEAR MR. SECRETARY: Last week the House of Representatives authorized you to use up to $50,000,000 of the funds available under

Section 32 to meet needs arising in the child nutrition programs. Just yesterday, the Senate Agriculture Committee went one step farther. Effectively, they handed you a blank check and said that it now was up to you to do the necessary job.

Ordinarily, I would wait until the Conference Committee between the House and Senate had met and acted. But this is not an ordinary set of circumstances nor an ordinary authorization. At stake is the money needed to feed needy children this summer in our cities across the nation, many in programs that are scheduled to begin next Monday, June 21. It is also not an ordinary set of circumstances because until just a few short weeks ago, representatives of your Department were actively encouraging the states and cities to expand their summer feeding programs to reach as many needy children as they could. For example, just this Spring, in a meeting attended by all of the 77 cities of Los Angeles County, your representative said: "You get the kids and we'll get the money." And Los Angeles County "got the kids." This summer they expect to feed 273,000 children each day, at a cost of $5,000,000. Just this week they were told, again by your representatives, that the entire state of California would receive only $863,000. Los Angeles' share would not be able to sustain their program for more than a few days.

Chicago provides a similar example. There, members of the Mayor's staff were also encouraged to expand their programs to reach more children this year than last. After considerable effort the city was prepared to feed an average of 65,000 children each day in 350 sites throughout the city. The total cost of the program would be about $2,500,000, which they had been told to expect. Then just this week, they were told that the entire state of Illinois would be allocated only $200,000. In my own State of South Dakota, a special effort to feed Indian children on reservations like the Rosebud and Wounded Knee would have to be abandoned.

The same story can be told of Trenton, Detroit, Dallas, St. Louis, Baltimore, Atlanta, Newark, Tallahassee, and cities throughout the nation. Responsible city officials were encouraged by USDA representatives to expand their programs and were given firm assurances that the money would be available. Contracts were let. City budgets were tapped to provide the local cash contribution required. Teenagers were promised jobs. Food service companies were hired.

Then, just one week from the scheduled opening date of the programs, those same USDA representatives said that there would be no money for summer feeding programs. It is difficult to understand such seemingly contradictory behavior. It is particularly difficult to understand because on the same days that your representatives in the USDA regional offices were informing the cities that there wasn't any money, representatives here in Washington were assuring the members of the Senate Agriculture Committee that there was no problem finding the money for the programs. Assistant Secretary Lyng has now even testified on three separate occasions this year that:

"We are happy to be able to report that we have been able to meet demonstrated needs for additional funds this year."

Time is short, Mr. Secretary. As you no doubt recall, the summer feeding programs were one part of the Congressional response to the desperation and frustration that had erupted in bitter riots during the summers of 1966 and 1967. This summer, as for two years, the summer feeding programs would not only provide food for needy youngsters, but they would provide jobs for teenagers as well. The impact that might be expected as the word spreads round the cities was not lost on members of your own department. In their own words:

In summary, because of summer strife and metropolitan problems, the Special Food Service Program for Children has become an important dimension of summer programs throughout the nation and under our current apportionment formula and budget restrictions, Section 32 block grants are necessary if we respond to this need. Because of the important role and social impact this program has on endeavors of this nature, considerable reaction will be forthcoming in the event funds are not available. In addition, we anticipate a ground swell of public opinion that could very well affect the reaction to the supplemental appropriations bill now in the Senate.

Mr. Secretary, what the House and Senate have authorized you to do is something that you have always had the authority to do. Our actions merely underscore our belief that your department has a responsibility to honor the commitments, verbal as well as written, which have been made.

The National Conference of Mayors, meeting in Philadelphia, went to considerable effort to alert their Senators of the pressing need for immediate action on the summer feeding programs. They are all too aware of the "important role and social impact" of such a program. The cities have been quiet. To reward that tranquility by eliminating the programs on which that quiessence, in part, depends would only write large the idea all too often believed: that government will respond not to responsible action but only to riots.

I believe this to be a matter of the utmost urgency. Your department solicited the expansion of the programs, your department assured Congress that it would be able to meet all its obligations. Only three days remain for that to become a reality.

Sincerely,

GEORGE MCGOVERN,
Chairman, Senate Select Committee on Nutrition and Human Needs.

BRIGHTER OUTLOOK FOR FARMERS

Mr. HRUSKA. Mr. President, my fellow Nebraskan, Secretary of Agriculture Clifford Hardin, had some encouraging information for us recently. In an interview in U.S. News & World Report, he pointed out that the long-standing surplus in feed grains has almost been wiped out by the rapidly expanding rate of export.

He notes that U.S. farm exports now are moving at a rate of $7.5 billion and predicts that within the decade they may rise to $10 billion. Already they stand $800 million a year above imports, thus furnishing us a welcome positive balance in our international payments situation.

Secretary Hardin points up the fact that agriculture leads all industries in the matter of increased productivity. He recognizes the severe problems which inhibit the farmer—the drought in the Southwest this year, the large capital investment which farming requires, and inflation, which is the greatest enemy of the farmer.

It is good to have an administration which recognizes these problems and is endeavoring to meet them.

Secretary Hardin's statements provide reassuring evidence that the Nixon administration understands the farmer's problems and his importance to our economy. That is the first step toward helping to solve his problems.

I ask unanimous consent that Secretary Hardin's interview in U.S. News & World Report of June 28, 1971, be printed in the RECORD.

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

BRIGHTER OUTLOOK FOR FARMERS

Interview with the Secretary of Agriculture

Q. Secretary Hardin, what has happened to the farm surplus we used to hear so much about?

A. It has pretty well disappeared. Take the case of soybeans. Two years ago we had a carry-over of over 300 million bushels. For all practicable purposes, the carry-over this fall will be down to a minimum level under 100 million bushels. By the time the new crop is available, we will have only a few weeks' supply on hand.

Q. Had soybeans been a surplus problem?

A. They were two years ago. Three hundred million bushels was a huge carry-over. At that time, it looked as though it would double by the end of the next season.

That was when we lowered the support price of soybeans from $2.50 to $2.25 per bushel—February of 1969. Soybeans have sold well since. The price today is well above the old $2.50 support price.

Q. What about corn and wheat?

A. We'll have a minimum working-level carry-over of corn by the time the new crop is available. This is true generally of all feed grains. We still have some surplus wheat—not as much as a year ago, and not as much as two years ago. There is still a large supply of rice. There are surpluses of three small crops—oats, flax and barley—for there is insufficient demand for the quantities that are produced. But the total dollar value is not very high.

Q. And cotton?

A. We need to produce more cotton. Exports are up, and our stocks are low.

Q. Farm surpluses, then, are no longer a big problem!

A. They have diminished substantially in the past two years.

Q. Has this come about because there are larger markets within the U.S.?

A. There has been greater consumption within the U.S. Our population is growing, and this is a factor of 1 to 2 per cent a year. That is meaningful.

But the big increase has been in sales abroad. And the last calendar year, 1970, we set a new record for total exports. They will be even higher this year.

Q. What accounts for the bigger sales abroad?

A. There are several factors. First of all, our staff has worked very hard to get some trade concessions and has been to a degree successful. We've worked closely with the industry to increase our joint promotional activities. This has been helpful, particularly in Japan and in certain parts of Europe. Then our farmers were favored this past year by short crops in Europe, which meant that the demand for U.S. commodities was stronger. And it just happened that we had on hand some of the commodities that were in greatest world demand.

Q. Such as—

A. Soybeans and feed grains. And let's pursue that a bit. As standards of living rise throughout the world—in Europe, and even in some of the developing countries—the demand for meat increases very quickly. This in turn increases the demand for feed grains. And the U.S. has been able to supply them.

Q. What are the major feed grains?

A. Corn and grain sorghums, principally.

Q. What is the over-all dollar value of U.S. farm exports?

A. In the year that ends on June 30, the total will be about 7.5 billion dollars.

Of that, about 6.6 billion dollars will be for cash—hard dollar sales. The difference—anywhere from 800 to 900 million dollars—is the Food for Peace concessional type of sales. About a third of those sales are for soft currencies (not readily converted to dollars). The rest are sold in a combination of ways, but increasingly for dollar credits.

Q. You said U.S. farm exports are moving at the rate of 7.5 billion dollars. How much is this country importing in farm products?

A. About 800 million dollars less than we are exporting. This year, we'll contribute a net positive balance to our trade of about 800 million dollars.

Q. Do you expect to expand farm exports?

A. Yes. The President set a goal of 10 billion dollars a year recently. We think that goal is possible within this decade.

Q. Will the recent "dollar crisis" in Europe have any effect on sales of U.S. farm products?

A. At this point in time we do not expect it to be a major factor. So far, it has been principally a matter of value of the dollar versus the German mark and a few other currencies. To the extent that European revaluation is a factor, it would be a plus, because it would cheapen the price of our products a bit in those countries. I don't think it will be significant unless the differences should become substantially wider.

Q. To achieve this 10-billion-dollar goal in exports, do you have any plans that you haven't mentioned?

A. I've mentioned trade concessions, and maybe I should expand on that point.

Anyone who studies our total U.S. trade recognizes that we have lost our competitive advantage in a long list of products. The President mentioned steel as an example recently. There are others.

There are several farm commodities in which we have a comparative advantage. We feel that agriculture is one of those industries that offer growth potential for exports, and we should try to maximize our trade advantage. The President understands this, and he has been helpful in obtaining concessions that will be of benefit to agriculture.

Q. What do you mean by concessions?

A. As a case in point, the Japanese recently cut the tariff on U.S. soybeans in half. That is a big concession. They also have changed the import requirements on certain citrus products more in our favor. They have doubled the quota on imports of beef. This is what I mean by concessions.

Q. Did the U.S. have to give something in exchange?

A. Not in these instances. Our position with the Japanese in terms of total trade is a strong one in the sense that we have been buying much more from them than they have been buying from us. The difference exceeds a billion dollars a year.

The Japanese are accumulating foreign exchange. Many economists feel that their currency is tremendously undervalued, and that they are in a position where eventually they must buy more. As we see it, Japan is expanding its industrial capacity, but is short of land to expand agricultural production. It needs to import more farm products, and the U.S. is in a position to supply them. We are urging them, product by product, to make additional concessions on farm imports.

Q. Turning to Europe, what effect would Britain's entry into the European Economic Community, or Common Market, have on U.S. attempts to expand agricultural exports?

A. I think it would be a negative factor. How must so would depend on a number of things yet to be determined. For example, there are the Commonwealth preferences with countries like Canada, Australia and New Zealand. It has not been decided whether these will be assumed by the Community or, if so, to what extent. To the extent that they are not, there will be more pressure on our markets for the products of those countries, or increased competition for us in third countries.

The higher prices for food in Britain which will result from their entry will also affect total consumption in that country. There are also the internal shifts—British products will have free enry into Europe. Just how the internal shifts will work out is yet to be determined.

Beyond that the higher internal prices resulting from their going to the "common agricultural policy" of the European Community will undoubtedly in time increase their own domestic production and reduce the need for imports. And Britain is an important market for us—currently about half a billion dollars a year.

JAPAN: BILLION-DOLLAR MARKET

Q. What is the best market for U.S. farm exports?

A. If you consider the European Common Market as an entity, it is the largest. We sold 1.6 billion dollars' worth to them in this year ending June 30. The largest single national market is Japan, which bought 1.1 billion dollars—and that is rising. Japan is our first billion-dollar market, and we think it will be our first 2-billion-dollar market—possibly by the end of this decade.

Q. What other countries are major markets for U.S. farm products?

A. Next is Canada, followed by Great Britain. Within the European Community, the largest market is Germany and the second is the Netherlands.

Q. What is the trend in U.S. farm exports to Europe?

A. There are two trends in our trade with the European Community. Sales of commodities subject to the variable levy [a tariff that can be quickly raised or lowered] are up a little this last year, because of their short crops. But the trend is very definitely downward. Sales are up on all other commodities. Over all, the volume of sales seem to be holding about even.

Q. If the goal of 10 billion dollars a year in farm exports is reached, will this help the income of the individual U.S. farmer?

A. We certainly think that it will. First of all, farmers are still holding sizable acreages out of production, which means that American farms can produce more than can be sold domestically or abroad.

Q. How much land is idle?

A. About 34 million acres are being kept out of production this year by farmers participating in the cotton, wheat and feedgrain programs.

Q. So if markets expand abroad, the farmer can produce more—

A. He can produce more, and this reduces his average cost per bushel or per bale and it increases his receipts. Generally it will give him an opportunity to net more dollars.

Q. Is there any danger that U.S. farmers will price themselves out of markets abroad if their costs keep rising?

A. Perhaps with the types of commodities that we would call labor-intensive—yes—the crops that cannot be readily mechanized. But for those crops that can be mechanized—such as feed grains, soybeans and wheat—we feel that American farmers will continue to have a competitive advantage.

Q. What are the prospects for American agricultural exports to the Communist countries—Russia, China, Eastern Europe?

A. Let's take Eastern Europe first. We look for some modest expansion of trade with the Eastern European countries. It has been expanding. We see nothing in the future that would alter that trend. They are desirous of earning foreign exchange, and they are looking west. Some of the commodities we want to sell are items that they need.

In the case of China, I don't think anyone knows the answer yet. Canada has made substantial sales of wheat to China for several years.

We have no way of knowing how large the trade with China and Russia would become if conditions were right.

Q. Is it possible that, as political relations improve with China, the U.S. might have greater access to whatever market is there?

A. I presume we would have greater access, because we have none now.

Q. Mr. Secretary, how much is the Government paying in subsidies to bolster farm income?

A. It will be in the neighborhood of 3.5 billion dollars in the fiscal year that ends June 30.

Q. Do you see any reduction in this subsidy if farm exports continue to rise?

A. I don't see any significant reduction during the three-year life of the 1970 agricultural act. What would be possible after that will depend partly on the desire of Congress. We were convinced, at the time we worked out the details of the '70 act with the Senate and House agricultural committees, that any significant reduction in payments to farmers at this juncture would have meant a comparable reduction in net farm income. What has happened through the years is that the payments have been capitalized into land prices and, in turn, into the farm-mortgage structure and into local taxing patterns. To reduce payments—with so many farmers operating on thin margins—would be demoralizing across the farm country—not only to farmers themselves but to whole communities.

Q. If blight should cut the corn crop severely this year, would this hurt farm exports?

A. If our production of corn should be reduced substantially, we would probably sell less, simply because we wouldn't have it to sell. Last year, when blight and drought hit, that was not the case, because we had carryover supplies on hand, and we could continue to meet our export commitments.

Q. What is the latest report on corn blight?

A. We do not know at this date what will happen. It depends on factors still unknown. Weather is the principal one.

We know that the situation this year is different in one respect from last year. The blight spores are in existence over a much wider geographical area—they're in place and waiting. If the weather conditions are right—warm and humid—they will do their work.

But the crop is not yet far enough along to tell what is likely to happen. Blight attacks late in the growing season. Last year it hit its peak in August and early September.

HOW DROUGHT IS HURTING OUTPUT

Q. Is drought going to cut crop production?

A. The prolonged dry spell in the Southwest is severely affecting the crops in that area. In fact, in some areas, it's beginning to look like there will not be any crops in 1971—except where irrigation is available. I was in the Southwest in early May. There are large areas where no wheat will be harvested. In some areas it is too dry to plant cotton. Pastures are not growing.

But, over all, in terms of wheat, the prospects are for a crop about the same as last year's, because the largest wheat-producing areas are to the north of the drought belt:

As to corn, if the blight hits very hard, we could have a crop as low as 3.8 billion bushels. If blight is not a factor at all, the crop could be as high as 5 billion bushels.

Q. How much corn does the U.S. need per year?

A. On an average over the past three years, we have utilized 4.5 million bushels annually.

Q. If blight hits corn hard, and the drought gets worse, what would be the impact on the over-all U.S. economy?

A. This would definitely affect the economy, because people who are producing corn and grain sorghum and cotton are also a very good market for all kinds of commodities. But so far the impact has been

mainly on the farmer whose crops were destroyed last year. He suffered an economic loss. The total impact isn't of the same magnitude as the General Motors strike, yet it is a significant economic factor.

Q. Will there be enough blight-resistant seed for the corn crop next year?

A. Yes, we should be able to produce enough of the resistant seed this year to take care of most of the planting needs in 1972.

Q. Farming, it seems, is still a big gamble, even with all the modern technology—

A. It certainly is a big gamble for the individual. There is more resiliency in our system today than there was 30 years ago. We have more drought-resistant crops. The farmer today is better able to withstand the severities of weather than at an earlier date. There is more irrigation to keep production going when it's dry. But farming still is a hazardous industry.

Q. How many farmers are there now in this country?

A. Our best estimate is that there are about 2.8 million farmers. This counts any person living in the country who has 10 or more acres and markets $50 worth of commodities or more in a year—or has less than 10 acres but at least $250 in marketings. There are a great many people who work elsewhere, who rent some land to a neighbor and for whom the farm is principally a place to live, but they get counted in the rural population. Just how many of these there are, we do not know.

We do know that if we count the farmers who have at least $10,000 gross receipts annually, there are less than a million of them. But these farmers produce the bulk of the nation's farm products, about 85 per cent.

FEWER FARMERS, BIGGER FARMS

Q. Will the number of farms continue to decline?

A. We think farms, on the average, will continue to get larger, which will mean there will be fewer farm operators.

Q. How big does a farm in the Midwest have to be these days to be successful and how much of an investment is necessary?

A. An efficient corn-belt farmer, operating with the lowest cost possible, will need about 500 acres. The land would have a value at least $500 an acre. There's a quarter of a million dollars. Now add your equipment cost of $100,000—no less. And if it's a livestock farm, there are additional costs.

Those are the kinds of capital requirements in agriculture today, and that is why an adequate supply of credit is important. I was surprised, when I examined the record, that under the Farmers Home Administration, the supply of credit available to farmers had not been significantly increased for 11 years until the President took action recently.

Q. Mr. Secretary, a question for consumers: What is going to be the trend in meat prices?

A. Meat prices, while they've gone up in absolute terms, are not high in terms of wage rates. The average American has never been able to buy a steak with fewer minutes of work. This is part of the efficiency story of American agriculture. Our cattle industry is efficient, and the price farmers receive for live cattle has been higher in the past than it is today.

Q. But what trend do you see in meat prices?

A. I would hope that they might advance at least as much as cattlemen's costs.

Q. What about hogs?

A. Hog prices are quite low. Hog prices ranged between $28 and $29 per 100 pounds live weight early in 1970. Farmers responded by producing too many, and the price went down to as low as $15.50 per 100 pounds for a few months. And hog farmers suffered losses.

Now, farrowings [births of pigs] are lower this spring, and the indications are they'll be down further next fall. From now on we expect some stregnthening in the prices.

I am concerned that during the last half of 1970 the pricing policies of the food industry did not reflect the drop in live-hog prices immediately. Even though the price came down at the farm level, there was no corresponding drop in retail prices. For a period of five months the retail-pricing pattern for pork did not reflect the drop in the farm price.

We've made an urgent plea to the food industry, and particularly to the supermarkets: "Please change your pricing policies so that prices at the meat counter quickly reflect changes in farm prices. Then farmers can at least receive the benefit of increased sales."

Q. What has been the response?

A. There has been some response, but not enough, in my judgment. The margin between farm and retail price continues to rise.

PRESIDENTIAL BOOST FOR AGRICULTURE

Q. Mr. Secretary, why did President Nixon invite farm leaders to the White House recently and put on a big show for them?

A. The President is very much impressed with the increased productivity of the American farmer. Agriculture leads all other industries in this respect. He feels that the consuming public needs to appreciate the contribution of the farmer more. The President also has a genuine concern for the fact that, in spite of what farmers have contributed to the American economy and the world, they haven't been rewarded equitably in terms of their share in the prosperity of this country.

This was an effort to dramatize this important farm story to the consuming public. The exhibits bore this out. They were directed not to farmers but to urban people.

Q. What points did the exhibits stress?

A. They pointed to the improved efficiency in agriculture, and how it was brought about—and to the fact that food prices, even at retail, have not gone up as much as incomes, and, therefore, food costs are a smaller per cent of incomes after taxes than ever before. This was the basic message.

Then the exhibits pointed out the various factors contributing to this improved efficiency, and they made some income comparisons showing that return to the farmer for labor and for capital lags behind the rest of the economy.

Q. How far behind?

A. In 1960, total per capita income of farmers—and this included farm and off-farm income—was about 55 per cent of the level of urban incomes. It's now up to 78 per cent.

Q. Those, of course, are averages. How well do the top farmers do?

A. Some individual farmers who have enough volume, who have great managerial ability and whose farms are in the right places, are doing fairly well.

Q. Is the Administration taking any steps to improve the average farmer's situation?

A. The President has made a number of moves to do this. He acted recently to expand the supply of credit for farm-operating expenses and farm ownership. The release of some additional loan funds for the Rural Electrification Administration will help in the long run.

We are expanding the work on small watersheds. This doesn't help the individual operator directly, but improves the tone of rural America.

The new farm legislation, which is just now going into effect, was developed on a bipartisan basis, with Administration support. We think it will be a constructive force in eventually improving the lot of the farmer.

The research effort has been expanded to get at some of the key problems: More research on the corn blight, an obvious need, is one example. The cattle tick and the fire ant are others. There is also increased research on alternate methods of controlling pests, including biological controls.

Q. Farm State Congressmen say that raising Government price supports on basic commodities is the way to help farm income—

A. This is one of the real debates. It has been one of our concerns. When prices are maintained at artificially high levels, domestic consumption is reduced. And, more importantly, they interfere with the flow of goods into international markets.

The new farm legislation permits price-support levels to be kept generally below world prices and provides for payments directly to the farmer that require him to keep a portion of his tillable land out of production to bolster farm income independent of the price structure. This permits the commodities to move freely into international trade.

To be specific, if the price of corn should be supported at higher than the world price, then the only way we could move it in world trade would be with a subsidy behind it. By permitting the trade to compete on a free basis, a greater total can be moved than if we had to negotiate continuously on what the subsidy would be.

We are determined to conduct our price-support programs in a way that will maximize our sales in world competition, and I think we are accomplishing that.

Q. Will you continue to resist demands to increase price-support levels?

A. Yes, we will. And let me point out that the agricultural committees also understood and supported this position in both the House and the Senate.

Now understand, we still have commodity price support loan programs. A farmer may obtain a commodity loan on his grain or cotton at harvest time or during the marketing year. This nonrecourse loan protects him in case of a catastrophic price drop, provides cash at market time, and permits him to sell his crop when he thinks the market is right.

Q. A Republican Congressman from the Midwest said recently: "President Nixon is in deep trouble now in the farm belt. Unless he gets back the farm vote, the 1972 election will go down the drain." This Republican went on to say: "What Nixon must do is raise the loan support on corn, soybeans, wheat, oats, barley and flax and put a floor under prices generally." Do you have authority to raise price supports?

A. Within limits, yes. But not to increase direct payments to farmers.

I think it's highly questionable whether raising price supports would actually improve income, even in the short run. So if there is a political problem, I don't believe that is the answer.

Q. Is the President in political trouble in the farm States?

A. I don't think so. I've read the articles about what happened in the farm States in the 1970 elections. I know those States well, and I know that in most of them there were significant local issues.

Now, what's ahead?

For one thing, we find that farmers like the new agricultural program so far. We've been getting a favorable response in the last two months, and especially since the beginning of the sign-up under the new farm program. Participation in both the wheat and feed-grain programs is the largest ever.

At first, farmers didn't seem to understand the details of the new legislation. But when they began to analyze it, they found out they did like it, that it did give them additional flexibility in operating their farms. The cotton growers also seem to like their program quite well.

The cotton price now is rising. Farmers can sell this year's crop now by contracts at

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favorable prices and still receive a guaranteed additional payment of 15 cents a pound. That represents a good return.

Q. Mr. Secretary, what do you think is the one thing to be done that would be of most help to farmers?

A. Actually, the No. 1 problem that the farmer has today is inflation.

The one thing that would improve farm conditions most would be to bring inflation under control so that the cost of the things farmers purchase—either for production purposes or family living—would be leveled.

Gross income from sales has been increasing, but the increase is being eaten up by rising costs for labor, equipment, supplies and taxes.

The position of the farmer is not unlike the person on a fixed income. Farm prices themselves have not advanced much over the past two decades. The farmer has produced more, increased his dollar sales, only to see his income eroded by rising costs.

FADING FARM SURPLUSES

Carry-over stocks in private and Government hands at end of crop year—

Wheat: Peak, 1.4 billion bushels—1961; 1971: (est.) 700 million bushels.

Corn: Peak, 2 billion bushels—1961; 1971: (est.) 700 million bushels.

Other feed grains: Peak, 28.5 million tons—1961; 1971: (est.) 15 million tons.

Cotton: Peak, 16.9 million bales—1966; 1971: (est.) 4.5 million bales.

Soybeans: Peak, 324 million bushels—1969; 1971: (est.) 75 million bushels.

Tobacco: Peak, 4.6 billion pounds—1965; 1971: (est.) 3.7 billion pounds.

As surpluses shrink, so does the cost to Government of handling commodities in storage. At the end of 1962, the U.S. owned or had price-support loans outstanding on 8 billion dollars' worth of products. Today's investment: $3.8 billion.

RESOLUTIONS BY THE SONS OF THE AMERICAN REVOLUTION

Mr. THURMOND. Mr. President, the 81st annual congress of the National Society of the Sons of the American Revolution met in Atlantic City, N.J., during the week of June 9.

This patriotic organization is noted for their diligent attention to matters that relate to the security of the United States. It was my pleasure to address them during the 81st annual congress, and I know personally of their devotion to our country.

Mr. President, the Sons of the American Revolution, during this convention, passed unanimously several resolutions.

I ask unanmious consent that they be printed in the RECORD.

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

81ST ANNUAL CONGRESS NATIONAL SOCIETY OF THE SONS OF THE AMERICAN REVOLUTION

The following Resolutions were presented by the National Resolutions Committee to the 81st Annual Congress of the National Society of the Sons of the American Revolution and were unanimously adopted:

RESOLUTION NO. 1

Whereas, the 80th Congress of the National Society of the Sons of the American Revolution meeting in Houston, Texas, in June, 1970, adopted a resolution expressing unequivocal support of voluntary Bible reading and prayers in our public schools; and

Whereas, more than a hundred resolutions have been introduced in the United States Senate and House having as their purpose amending the Constitution to allow voluntary Bible reading and prayers in public schools; and

Whereas, many thousands of signatures have been presented in support of such efforts; and

Whereas, all efforts to amend the Constitution have failed to reach the floor of Congress because of the inaction of the respective Congressional Committees:

Now, therefore be it resolved that the National Society of the Sons of the American Revolution recommends amending the United States Constitution to accomplish voluntary Bible reading and prayer in public schools; and

Be it further resolved that copies of this resolution be forwarded to members of both the Senate and the House of Representatives of the United States.

RESOLUTION NO. 2

Whereas, the U.N. Genocide Treaty is a dangerous document that may become the law of the land, and if ratified by the Senate of the United States could nullify the freedoms our forefathers fought for; and

Whereas, the treaty could abrogate the United States Constitution and would impose World Court Jurisdiction over the acts of United States citizens, including military personnel, who could be tried by foreign tribunals without the protection of the Bill of Rights; and

Whereas, ratification of the treaty would be an irrevocable surrender of our Republic and its form of government to One-World United Nations Government:

Now, therefore be it resolved that the National Society of the Sons of the American Revolution in Congress assembled this 9th day of June, 1971, oppose ratification of the Genocide Treaty in any form whatsoever by the United States Senate; and

Be it further resolved, that copies of this resolution be presented to each member of the United States Senate.

RESOLUTION NO. 3

Whereas, there has been considerable discussion in the United States Senate concerning the jurisdiction over the Continental Shelf; and

Whereas, there are valuable mineral resources on the Continental Shelf; and

Whereas, the International Court of Justice said in 1969 that "those rights in our submerged land continent are inherent rights by virtue of our sovereignty over the adjacent land"; and

Whereas, there has been an effort to limit the sovereignty to submerged land only 200 meters deep; and

Whereas, if we agree to the 200 meters depth the United States will lose many thousand square miles of submerged land;

Now, therefore be it resolved by the National Society of the Sons of the American Revolution in Congress assembled that the United States insist on retaining sovereignty over all of our Continental Shelf regardless of depth, until it plunges into the deep ocean.

RESOLUTION NO. 4

Be it resolved by the National Society of the Sons of the American Revolution at its 81st Annual Congress assembled that the local, State and national societies, Sons of the American Revolution, cooperate annually in a "USA Appreciation Sunday", and

Be it further resolved that the third Sunday in October each year be set aside for participation in local services; and

Be it further resolved that to implement this resolution, suitable materials be made available upon request to the executive secretary, chairman of the Americanism Committee, or the chaplain general; and

It is hereby recommended that where feasible the state societies and local chapters attend church services in a body where recognition is assured by a pastor and the congregation and that invitations be extended to related patriotic organizations to join in the observance.

RESOLUTION NO. 5

Whereas, the current status of Cuba as a Communist puppet which involves naval, air, and missile threats to the United States is in direct violation of the Monroe Doctrine and existing agreements:

Now, therefore be it resolved that foreign Communist governments be presented a United States demand to remove their presence from Cuba, and if they fail to do so the United States stands prepared to introduce its own military posture into the area, including blockade, occupation, or other measures as may be deemed most appropriate and effective to enforce the Monroe Doctrine.

RESOLUTION NO. 6

Whereas, there is a growing need for the presentation of the historical facts concerning our American patriots; and

Whereas, there is a determined effort on the part of subversive elements to undermine and distort the history and background of our country;

Now, therefore be it resolved by the National Society of the Sons of the American Revolution in Annual Congress assembled that the problems of Communistic infiltration in our public schools is a constant threat to our system of government and that a committee of compatriots will render a valuable service by examining the textbooks used in the schools of our nation and the books which are on the list for supplementary reading.

RESOLUTION NO. 7

Whereas, the F.B.I. and J. Edgar Hoover and their administrative policies have been under unprecedented attack; and

Whereas, there has been increasing attack on all law enforcement agencies in this country; and

Whereas, Mr. Hoover and the Agency he heads symbolize law and order to the entire nation; and

Whereas, Mr. Hoover is one of the greatest examples of dedication to civil order and to the protection of the rights of the individual and of the Nation as a whole,

Be it resolved by the National Society of the Sons of the American Revolution at its 81st Annual Congress assembled that it voices its wholehearted support of the policies and excellent leadership of Mr. Hoover, personally, and the Federal Bureau of Investigation and that a copy of this resolution be sent to Mr. Hoover, to the President of the United States, and to the Attorney General of the United States.

RESOLUTION NO. 8

Be it resolved by the National Society of the Sons of the American Revolution in its 81st Annual Congress assembled that the local, states and national societies of the Sons of the American Revolution deplore and condemn the action of those Representatives and Senators who condoned and aided demonstrators in their effort to shut down the operation of the government of the United States and looked with a tolerant eye while every symbol of our Republic was vilified.

RESOLUTION NO. 9

Whereas, the Congress has on hand a bill to abolish the electoral college, and to elect a president by popular vote, and

Whereas, the bill to elect a president by popular vote has been passed by the House of Representatives and is now in the Senate; and

Whereas, elections by popular vote would make it possible for 10 states to elect a president; and

Whereas, a situation of this kind could bring a chaotic condition to our nation and put it under control of ten of the fifty states:

Therefore be it resolved by the National Society of the Sons of the American Revolu-

tion at its 81st Annual Congress assembled that it opposes any action that would abolish the electoral college; and

Be it further resolved that a copy of this resolution be sent to the President of the United States and to each Senator of the 50 states of the United States, strongly urging each Senator to vote against any and all bills that would abolish the electoral college.

RESOLUTION NO. 10

Whereas, as a direct result of sanctions imposed against Rhodesia by the United Nations and supported by the United States, the United States now purchases Chromium Ore from Soviet Russia, at a greatly inflated price; and

Whereas, Chromium Ore is essential to the production of weapons necessary for our National defense, as well as materials and equipment necessary in our daily lives; and

Whereas, Chromium Ore is in such short supply that our Government has recently had to release for domestic use a large part of our strategic stockpile:

Now, therefore the National Society of the Sons of the American Revolution reaffirms Resolution No. 9 as adopted by the 80th Congress of the Society urging the immediate establishment of diplomatic relations and the resumption of trade with the Republic of Rhodesia.

RESOLUTION NO. 11

Whereas, the Federal flag desecration statute, Title 18, United States Code, Section 700, became effective July 5, 1968, and provides "Whoever knowingly casts contempt upon any flag of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon it shall be fined not more than $1,000 or imprisoned for not more than one year, or both."; and

Whereas, Title 36, United States Code, Chapter 10, contains a codification of rules and customs pertaining to display of the flag; any use of the flag involving disrespect, although perhaps not involving desecration, would violate these customs and rules. However, the provisions of this chapter do not contain criminal penalties:

Now, therefore it is hereby resolved by the National Society of the Sons of the American Revolution in annual Congress assembled that all compatriots and all citizens of the United States be urged to support and seek enforcement of the Flag code and the Desecration Statute in each state and local community.

RESOLUTION NO. 12

Whereas, legislation is pending in Congress to make it a Federal crime to fly the flag of a country with which we are engaged in hostilities:

Therefore be it hereby resolved by the National Society of the Sons of the American Revolution in annual congress assembled that all compatriots and all citizens of the United States be urged to support legislation that would punish citizens flying the flag of our enemy.

RESOLUTION NO. 13

A Resolution to express appreciation for assistance rendered to the 81st annual Congress.

Whereas, the 81st Annual Congress of the National Society of the Sons of the American Revolution has been successful in every respect; and

Whereas, our appreciation should be extended to the many individuals and groups that contributed to the success of this Congress;

Now, therefore, be it resolved that the National Society of the Sons of the American Revolution hereby expresses its grateful appreciation to President General Walter R. Martin and to his charming and devoted wife, Eleanor, for the faithful performance by him of the arduous duties of his high office and the gracious giving of their talents to his outstanding administration; and

Be it further resolved: That our appreciation be given to our Executive Secretary, Warren S. Woodward, and his lovely wife, Gisela, for their vital role in the arrangements for, and execution of, the Congress, and

Be it further resolved: That our grateful appreciation and thanks be extended to:

Compatriot Vincent Van Inwegen, Chairman of the New Jersey Society Congress Arrangements Committee, Compatriot Richard E. Crane, Co-Chairman of the New Jersey Society Congress Arrangements Committee, and members of the New Jersey Society who assisted them;

Mrs. Vincent Van Inwegen, Chairman; Mrs. William Y. Pryor and Mrs. Richard E. Crane of the Hospitality and Information Committee for their kindness and assistance;

Compatriot Hammond Fowler, for his address at the luncheon on Monday;

Mrs. Ann Hawkes Hutton, for her address on Tuesday evening;

United States Senator (and Compatriot) Strom Thurmond, for his address on Wednesday evening;

Mrs. Edward L. Westbrooke, Registrar General, Daughters of the American Revolution representing Mrs. Donald Spicer, President General, Daughters of the American Revolution;

Mrs. Robert S. Hudgins, Senior National President, Children of the American Revolution;

Miss Jane E. Hardy, National President, Children of the American Revolution;

Compatriot Vincent Van Inwegen, President, New Jersey Society, Sons of the American Revolution;

Mrs. John F. Griffin, State Regent, New Jersey Society, Daughters of the American Revolution;

Mrs. Robyna Ketchum of Cos Cob, Connecticut, for her gift of a Freedom Bell to the National Society, Sons of the American Revolution;

Past President General Charles A. Anderson, M.D., for arranging the display of S. Hubbard Scott's collection of Historical, State and Territorial Flags belonging to the Ohio Society, Sons of the American Revolution;

Be it further resolved: That the National Society, Sons of the American Revolution, in this 81st Annual Congress assembled, hereby express its sincerest appreciation to all others whose efforts contributed to the success of this Congress.

USE OF JAPANESE AND OKINAWAN PORTS BY U.S. NUCLEAR-POWERED WARSHIPS

Mr. THURMOND. Mr. President, I invite attention to an article entitled: "Japanese Hostility in New Footnote," written by Willard Edwards, which appeared in the Chicago Tribune on June 10, 1971. The article, which was based on testimony given by Admiral Rickover to the Joint Committee on Atomic Energy, concerns onerous and unreasonable conditions imposed by the Japanese Government on U.S. nuclear-powered warships visiting U.S. naval bases in Japan under the terms of our Mutual Security Treaty with Japan.

As a result of these conditions, which appear to be wholly unwarranted, access to American naval bases in Japan had to be suspended for a total of 11 months in 1968 and 1969; since early 1970, the United States has been deprived altogether of the use of our naval base at Sasebo for these ships, and has lost access for its nuclear warships to all facilities at our base at Yokosuka except one drydock.

Mr. President, it is important to note in this connection that, unless this situation is resolved, our nuclear warships could similarly lose access to U.S. base facilities in Okinawa if the Senate ratifies the change to the treaty which provides for the reversion of Okinawa to Japan. I look on this matter with grave concern. I am strongly opposed to reversion and the restrictions on bases in Japan. Our national security is at stake by these actions; consequently, I am directing inquiries on this subject to the Secretaries of State and Defense. I am sure that Senators will wish to give careful consideration in evaluating the United States relationship with Japan.

Mr. President, I ask unanimous consent that the article by Mr. Edwards and the pertinent extracts of Admiral Rickover's testimony on this problem be printed in the RECORD.

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

[From the Chicago Tribune, June 10, 1971]

JAPANESE HOSTILITY IN NEW FOOTNOTE

(By Willard Edwards)

WASHINGTON, June 9—Recent closed-door testimony before the Joint Atomic Energy Committee reveals Japanese government harassment of the United States Navy's nuclear warships in Japanese ports.

The testimony, now available in censored form, supplies a chilling footnote to the history of strained relations between this nation and Japan. It implies a Japanese hostility of unreasonable proportions.

In discussions this week in Paris and next month in Tokyo, American Cabinet officers and diplomats will seek to adjust the economic factors which are the prime cause of dispute between the two nations.

The U.S. is understandably concerned about the tardiness of Japan in lightening its tight import quotas, high duties and restrictions against foreign investment while it invades to reap big profits.

Secretary of the Treasury John Connally has promised a new "get tough" policy with both Germany and Japan, two foes defeated in 1945 who have since prospered mightily with American aid and under the protection of American arms. He has dared to suggest that both should share more of their defense costs.

High-ranking representatives will discuss these issues in guarded terms, preserving the amenities.

But Vice Adm. H. G. Rickover, director of the Navy's nuclear propulsion program, is no diplomat. When questioned at the closed session, he minced no terms in accusing the Japanese government of manufacturing false propaganda for political purposes.

Rickover was asked about an incident in May, 1968, when an American nuclear submarine was accused by Japan of contaminating Sasebo Harbor thru the release of radioactivity.

A long and exhaustive investigation, he said, proved beyond doubt that the submarine had not released radioactivity. Its nuclear reactor in fact had been closed down for 96 hours prior to the alleged detection of radioactivity in readings taken by Japanese agents in a small boat. The low-level readings, it was shown, came from welding machines and similar gear on other Navy ships, a common phenomenon.

The Japanese government, highly sophisticated in the atomic energy field, was fully aware that the issue was "phony," Rickover

said, but deliberately set out to use the incident to harass Navy movements.

It intensified its monitoring activities, "giving the Japanese public the impression that the ships were dangerous." Access to American naval bases in Japan by nuclear warships was suspended for a total of 11 months. Since early 1970, no nuclear warship has been permitted in the base at Sasebo and all facilities at Yokosuka were barred, with the exception of one drydock.

"I do not challenge the right of the Japanese Government to monitor our nuclear-powered ships," Rickover told the committee. "But let us bear in mind that the context of these visits is that of a cooperative defense relationship in which the U.S. has undertaken to defend Japan in certain circumstances and the Japanese in return have agreed to grant us certain base rights in Japan.

"In practice, however, the Japanese government has imposed onerous and unreasonable conditions on these visits. It has chosen to build up false fears and anxieties in the minds of the Japanese public as a political expedient. This is a situation which potentially could do us great harm."

Some of Rickover's testimony was deleted, and the political reasons for Japan's attitude were left unexplored. The testimony provoked in several committee members melancholy reflections on the prevalence of ingratitude among nations as among men.

Japanese Monitoring of U.S. Nuclear Warships

(Extracts from Report on the Hearing before the Joint Committee on Atomic Energy Congress of the United States, 92d Congress, 1st Session on Naval Nuclear Propulsion Program, Testimony of Vice Adm. H. G. Rickover, March 10, 1971)

In classified testimony, Admiral Rickover covered in detail the problems which the Navy has experienced as a result of false "contamination" allegations raised against U.S. nuclear-powered warships in Japan, and described the extreme measures being applied by the Japanese authorities to these ships at U.S. naval bases in Japan. Some of these measures appear to go well beyond what is reasonable and proper for their stated purpose. They have resulted in the loss of essential U.S. base facilities in Japan to our nuclear warships for extended periods of time, and have caused other interferences to the operations of these important ships. This situation has been allowed to develop despite the overwhelming evidence of the safety of these ships, and the truly remarkable record Admiral Rickover has achieved in the control of radioactive waste (see pp. 81 to 85).

Although very little of Admiral Rickover's testimony on this subject involves military security information, the departments of State and Defense have requested that the full text not be published at the time in the interest of negotiations now in progress to secure satisfactory access by U.S. nuclear-powered warships to essential U.S. base facilities in Japan on a stable and realistic basis. While complying with this request, the committee regards the situation described by Admiral Rickover as unwarranted and inconsistent with good relations. If the problem cannot be resolved in the current negotiations, or if U.S. nuclear-powered warships should again be subjected to sensationalized false charges in Japan, the committee feels all the facts of the situation should be made available to the public as a matter bearing on the relationship between the United States and Japan. The Joint Committee has asked Admiral Rickover to keep the committee advised of further developments relative to this problem.

Naval Nuclear Program Has Outstanding Record in Protecting Environment

Representative Holifield. I want to say that I have had an opportunity to review this report briefly, and I feel Admiral Rickover and his people deserve a great deal of credit for this effort. That Admiral Rickover has been able to take a program as big and complex as the Navy's nuclear fleet—some 100 operating reactors—and all of their support facilities, shipyards, and so forth, and operate them without affecting the environment is a truly remarkable achievement. It is particularly remarkable since the procedures and controls he uses were not installed as an afterthought, in response to laws or political pressures. They have been built into the program since its inception because of Admiral Rickover's own personal concern for the environment we live in.

False Contamination Incident in Japan

Senator Baker. What happened in the big flap over contamination in Japan?

Admiral Rickover. I believe you are referring to the incident which occurred in May 1968, in which it was alleged that one of our nuclear submarines had contaminated Sasebo Harbor by releasing radioactivity. However, there was never any contamination; that was a phony issue. The investigation conducted at that time by the Navy and the AEC showed conclusively that the allegation was without foundation, that the submarine had not released any radioactivity. In fact, the reactor had been shut down for 4 days.

Representative Price. As I recall, the problem appeared to be more or less inherent in the kind of monitoring system used by the Japanese. I would also be interested in learning how this matter was resolved, and whether there are currently any problems in this aspect of our nuclear submarine visits to Japan.

Continuing Problems With Japanese Monitoring System

Admiral Rickover. It has not been resolved, sir; we are still having serious difficulties in Japan. Although our nuclear warships visiting Japan have adhered scrupulously to our safety assurances, and no levels of radioactivity have ever been observed which could be considered significant from the standpoint of public safety, the Japanese monitoring system has grown progressively more [deleted]. Since the political crisis generated at Sasebo in 1968, which, as I have said, was in no way attributable to our nuclear-powered warships, the monitoring system employed by the Japanese has created a continuing atmosphere of suspicion and fear surrounding these visits. Because of this, the Navy in 1968 and 1969 had to suspend nuclear warship visits to our naval bases in Japan for periods totaling 11 months, and has experienced numerous other disruptions of essential Navy work to facilitate pointless investigations of irrelevant and untraceable electronic phenomena. Since early 1970, we have been deprived altogether of the use of the U.S. Naval Base at Sasebo for these ships, and have lost access to all facilities at Yokosuka except one drydock. [Deleted.]

I am deeply concerned that another Sasebo-type incident could occur at any time, creating more sensational allegations against our nuclear ships [deleted.]

Unreasonable Conditions Imposed on U.S. Submarines

I would emphasize here that I do not challenge the right of the Japanese Government to monitor our nuclear-powered warships or impose conditions on their entry into their ports. They have the right, in fact, to keep them out altogether. This is true of any warships, however they may be propelled.

But let us bear in mind that the context in which U.S. nuclear-powered warships visit Japan is that of a cooperative defense relationship between our Governments in which the United States has undertaken to defend Japan in certain circumstances, and the Japanese in turn have agreed to grant us certain base rights in Japan. They have specifically consented to the use of these bases by our nuclear-powered warships. In practice, however, the Japanese Government has imposed onerous, unnecessary, and unreasonable conditions on these visits at an administrative level [deleted.]

It is not as if Japan were a backward nation, imposing these unreasonable restrictions out of ignorance or superstition. They are highly sophisticated in the atomic energy field, and are, in fact, building a nuclear-powered ship of their own. They understand perfectly [deleted] that there is no technical justification for the onerous conditions being imposed on our nuclear warships. What they are doing, however, is building up false fears and anxieties regarding nuclear power in the minds of their own public, as a political expedient. These fears will not be easily overcome in future years. [Deleted.]

This is an involved and complicated issue, sir, but it is one on which I believe this committee should be fully informed, for I feel it could potentially do us great harm. With your permission, I will provide a complete report on this for the record.

Representative Price. We would be very much interested in having that in the record.

Water Cooled Reactors Release Minimum Radioactivity

Senator Baker. Mr. Chairman, may I ask one more question in that connection? This really was behind my question a minute ago about whether there was any new or radical type powerplant in the offing.

As you know, there is this concern of the environmentalists who want us to stop building reactors and stop the breeder program and wait until we get controlled thermonuclear fusion. I don't advocate this for a second. I think it is very shortsighted and as unrealistic as the Japanese episode was unrealistic. It is important, I think, from the standpoint of public relations as well as from the standpoint of efficiency to make sure we not only have new techniques but that we advertise them well and carry our point.

Admiral Rickover. There are no reactors that I can envisage which are capable of producing less radioactivity into the environment than water-cooled reactors. The issue then becomes how well you operate and maintain them and the care you take of radioactive emissions. What I told you about the 110 naval reactors shows that it can be done.

With your permission, sir, I will include greater details on the Japanese episode.

Representative Price. Please include it in the record.

(The information referred to follows:)

Sasebo Incident a Nonincident

Admiral Rickover. I believe it is important that the members of this committee be aware of this situation, not only because of its effects on the nuclear Navy, but also because this is precisely the sort of thing which undermines public confidence in and acceptance of nuclear power, both in the United States and abroad.

To see this issue in perspective, you must bear in mind that the so-called incident at Sasebo in 1968 was, in fact, a nonincident, consisting entirely of a brief series of spurious low-level readings registered on radioactivity monitoring instruments operated by Japanese Government personnel in a small boat about 100 yards from the U.S. nuclear-powered submarine moored in the harbor. These readings were transitory in nature; they were not reproducible even 10 minutes after the peak reading was recorded. No contamination existed; no radioactivity was ever found, nor was cobalt-60 detectable in the harbor bottom sediment, as it would have been if reactor plant effluent from the submarine had been the cause of the readings.

Numerous Conditions Could Cause Readings

A U.S. Navy repair ship was located between the submarine in question and the monitoring boat when the peak readings were

registered, masking the submarine from the monitoring instruments completely. The repair ship was operating a number of welding machines in open doors in a direct, unobstructed line with the position of peak readings, and several other U.S. Navy ships were operating radar and other electronic gear in the vicinity. Any of these, or any combination of them, could easily have caused the slight instrument aberrations recorded by the Japanese monitoring boat. Such electronic interference to radioactivity monitoring instruments is a common phenomenon.

I would also note that the readings themselves were so low as to be inconsequential from the standpoint of public safety. Even if one assumes that the abnormal readings were, in fact, caused by radioactivity—and I emphasize there was no evidence whatever that this was the case—the radiation levels and radioactivity concentrations would have been about 1,000 times less than those considered acceptable for the general public by such authorities as the International Commission on Radiological Protection.

UNITED STATES DEMONSTRATES SUBMARINE NOT RESPONSIBLE

The U.S. Government went to great trouble and expense to demonstrate to the Japanese Government and public that the submarine had not caused the instrument aberration. At the request of the Japanese Prime Minister, three of my senior people were immediately sent to Japan to investigate the incident and attempt to find the cause of the readings. In addition, a legally constituted joint AEC-Navy examining board was dispatched to conduct an independent audit of the submarine. These groups, on the basis of official records, logs, and personal interviews with personnel of both the submarine and the facilities which supported it during its stay in Sasebo, established beyond doubt that the ship's reactor had in fact been shut down for some 96 hours prior to the recording of the abnormal readings, and that the ship had not discharged any radioactivity of any kind to either the harbor or the surrounding atmosphere. In short, they established that the U.S. submarine in question was in no way to blame for the small aberration which comprised this incident. The ship had scrupulously complied with all the assurances we had given the Japanese Government, as have all other U.S. nuclear-powered warships in Japan, both before and since.

JAPANESE GOVERNMENT IGNORES FACTS

However, the Japanese Government did not accept the evidence, but proceeded as if the investigation had shown the submarine to be at fault. They greatly intensified their atmospheric monitoring during visits by U.S. nuclear-powered warships and asked us to give them additional assurances with respect to the discharge of effluent. These actions inevitably conveyed to the Japanese public the impression that the ships were dangerous, and that our assurances were questionable.

INCIDENT DISRUPTS USE OF VITAL BASES

Access by nuclear-powered warships to our naval bases in Japan was interrupted for over 7 months while the Japanese installed additional air monitoring equipment. After visits were resumed, in December 1968, it soon became apparent that transitory, low-level aberrant readings of the type that occurred at Sasebo were frequently being caused by interference from nearby U.S. Navy electronic equipment entirely unrelated to our nuclear propulsion plants. We repeatedly urged that the Japanese authorities disregard these phenomena, since they are virtually impossible to trace, and are so small as to be negligible in any case. However, they adopted the policy of attempting to track down the cause of each of these small aberrations, and undertook progressively elaborate measures in these attempts.

JAPANESE MAKE UNREASONABLE DEMANDS

In April 1969, the Japanese Foreign Ministry submitted a list of equipment which they asked the Navy not to use while nuclear-powered warships were in port, in order to reduce interference to their monitoring instruments. This list included radar, radiography and X-ray machinery, and other radiating equipment. This, in effect, would have closed down a large portion of these naval bases, interrupting essential work for no purpose except to facilitate the investigation of trivial electronic phenomena. For obvious reasons, the Navy did not accede to these requests; however, the fact that such measures were seriously suggested by the Japanese Government demonstrates how far these monitoring policies had departed from reality. On one occasion, the Navy was asked to postpone for several weeks the entry into port of a submarine returning from an arduous patrol, for the convenience of the Japanese monitoring boat and its crew.

[Deleted.]

I will keep the Joint Committee informed of further developments in this matter.

MRS. NORMAN C. ARMITAGE

Mr. THURMOND. Mr. President, another outstanding South Carolinian has received national recognition bringing honor and esteem to herself and her State. Mrs. Norman C. Armitage of Spartanburg, S.C., has been nominated for president of the National Federation of Republican Women. The elections will be held here in Washington during the NFRW 16th biennial convention scheduled for October 20–23.

Mr. President, Mrs. Armitage has a distinguished record which indicates her qualification for this high office. An associate professor of art history at Wofford College, in Spartanburg, she is listed in Who's Who in American Women, Who's Who in the South, and Who's Who in American Politics.

A more thorough account of her lifetime of achievements appeared in an article with the headline "GOP Women Nominate Mrs. Norman Armitage." This article, along with an editorial entitled "She Earned Top Office," appeared in the June 18 issue of the Spartanburg Herald.

Mr. President, I ask unanimous consent that the article and editorial be printed in the RECORD.

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

[The Spartanburg Herald, Spartanburg, S.C., June 18, 1971]

GOP WOMEN NOMINATE MRS. NORMAN ARMITAGE

Mrs. Norman C. Armitage of Spartanburg has been nominated for president of the National Federation of Republican Women.

Mrs. Armitage (Connie) is first vice president of NFRW, which is headed by Mrs. Gladys O'Donnell.

Elections will take place at the NFRW 16th biennial convention, Oct. 20–23 at the Washington-Hilton Hotel. The term of office will begin Jan. 1, 1972. Mrs. O'Donnell, who has served two 2-year terms, cannot succeed herself.

The nominating committee met in Washington Friday and submitted a slate of nominees for the seven top national offices. In addition to Mrs. Armitage, the other nominees are Miss Lahoma Dennis of Topeka, Kan., first vice president; Mrs. Laddie F. (Pat) Hutar of Chicago, second vice president; Mrs. James W. (Ann) Blackham Jr. of Winchester, Mass., third vice president; Mrs. James (Ann) Tuck of Nashville, Tenn., fourth vice president; Mrs. John T. (Fran) Salmon, of Tucson, Ariz., Secretary; and Mrs. Henry S. (Betty) Heitman of Baton Rouge, La., treasurer. In essence, the slate maintains the leadership of the last two years with the exception of the treasurer. Mrs. Heitman recently succeeded Mrs. Wendell Hobbs in that post.

Mrs. Armitage, associate professor of art history at Wofford College, is listed in Who's Who in American Women, Who's Who in the South, and Who's Who in American Politics. She is a fellow and holder of scholarships from the American Council of Learned Societies. She serves on the 9-man South Carolina Fine Arts Commission. She has been active in state politics since 1960. In the NFRW she was elected second vice president in 1962 and reelected in 1964. She was elected as first vice president in 1968 and re-elected in 1970.

In discussing the slate submitted, Mrs. O'Donnell said: "These women possess outstanding political backgrounds, in addition to talent, articulation, and political acumen. They are effective powers within the National Federation."

Dorothy Andrews Kabis of Delaware, treasurer of the United States, served as chairman of the nominating committee.

SHE EARNED TOP OFFICE

Mrs. Constance Armitage deserves congratulations for her nomination to be president of the National Federation of Republican Women.

She has served that organization constantly and well, which could be said also of her service to the Republican Party.

She was the state's national committeewoman in 1964 and was a member of the party's Platform Committee. For the leadership she gave, she was selected for the Silver Medallion award by the Republican Women.

In 1967, she was elected first vice president of the organization and in 1969 she was re-elected.

It is particularly appropriate that her term of office coincide with a presidential election, in which her talent, dedication and interest will be of much value to her party.

AUTHORITY FOR THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE REPORTS TOMORROW

Mr. BYRD of West Virginia. I ask unanimous consent that the Committee on Interior and Insular Affairs be authorized to file reports throughout the day tomorrow until 5 p.m.

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

ORDER FOR RECESS FROM MONDAY UNTIL 9 A.M. ON TUESDAY, JUNE 29, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday next, it stand in recess until 9 o'clock a.m. on Tuesday.

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

AUTHORITY FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES DURING THE ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to

receive messages from the House of Representatives and the President of the United States during the adjournment of the Senate until 10 a.m. on Monday next.

ORDER FOR RECOGNITION OF SENATORS RIBICOFF AND McINTYRE ON MONDAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday next, immediately following the recognition of the majority and minority leaders under the standing order, the distinguished senior Senator from Connecticut (Mr. RIBICOFF) be recognized for 15 minutes, and that he be followed by the distinguished junior Senator from New Hampshire (Mr. McINTYRE) for not to exceed 15 minutes.

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

PROGRAM FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY, JUNE 28, 1971

Mr. BYRD of West Virginia. I ask unanimous consent that at the expiration of the orders recognizing Senators on Monday next, there be a period for the transaction of routine morning business not to extend beyond 11 a.m., with statements therein limited to 3 minutes.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I have been authorized by the distinguished majority leader to propound the following unanimous-consent requests, and I do so after having consulted with the distinguished assistant Republican leader and with the principal parties to all of the amendments and measures to which I shall allude.

It is my understanding that the majority leader has already secured an order by which the Senate will adjourn, upon the close of business today, until 10 a.m., Monday, and that the Senate, upon the completion of its business on Tuesday, will adjourn until 9 a.m., Wednesday next.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD of West Virginia. Under the order which I have recently secured, the Senate will stand in recess, upon the close of business on Monday next, until 9 a.m., Tuesday.

Mr. ALLEN. Mr. President, will the Senator withhold that for a moment, and permit me to suggest the absence of a quorum? It will be for a short duration.

Mr. BYRD of West Virginia. Will the Senator just let me get the response from the Chair? I am not propounding a unanimous consent request.

Am I correct?

The PRESIDING OFFICER. The Senator is correct.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENTS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time on S. 991, the saline water conversion measure be limited to 3 hours, the time to be equally divided between and controlled by the distinguished junior Senator from Washington (Mr. JACKSON) and the distinguished senior Senator from Colorado (Mr. ALLOTT).

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

Mr. BYRD of West Virginia. I ask unanimous consent that time on amendments to S. 991 be limited to 1 hour on each amendment, the time to be equally divided between and controlled by the mover of such amendment and the manager of the bill, Mr. JACKSON; and that time on amendments to amendments be limited to 20 minutes, the time to be equally divided between and controlled by the mover of the amendment in the second degree and the manager of the bill.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BYRD of West Virginia. I ask unanimous consent that time on all amendments be charged against the time allotted on the bill S. 991.

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

Mr. BYRD of West Virginia. I ask unanimous consent that Senators in control of the time on the bill may be authorized to yield time therefrom to any Senator on any amendment, motion, or appeal, with the exception of a motion to lay on the table.

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

Mr. BYRD of West Virginia. I ask unanimous consent that no amendment not germane be received.

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

Mr. BYRD of West Virginia. I ask unanimous consent that during the consideration of H.R. 7960, the authorization for the National Science Foundation, the time be equally divided between and controlled by the distinguished senior Senator from Massachusetts (Mr. KENNEDY) and the distinguished senior Senator from New York (Mr. JAVITS), the time to be limited to 1 hour.

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

Mr. BYRD of West Virginia. I ask unanimous consent that time on any amendments be limited to 10 minutes, the time to be equally divided between the mover of the amendment and the distinguished Senator from Massachusetts (Mr. KENNEDY).

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

Mr. BYRD of West Virginia. I ask unanimous consent that time on any amendments be charged against the time allotted on the bill.

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

Mr. BYRD of West Virginia. I ask unanimous consent that Senators in control of the time on the bill may allocate time therefrom to any Senator on any amendment, motion, or appeal, with the exception of a motion to lay on the table.

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

Mr. BYRD of West Virginia. I ask unanimous consent that on Monday next, at the close of routine morning business, the Chair lay before the Senate the unfinished business, Calendar No. 142, H.R. 7109, the authorization for NASA.

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

Mr. BYRD of West Virginia. I ask unanimous consent that, during the further consideration of H.R. 7109, the NASA authorization bill, on Monday next, the time, beginning with the calling up of that measure before the Senate by the Chair, be equally divided between and controlled by the distinguished Senator from Nevada (Mr. CANNON) and the distinguished Senator from Nebraska (Mr. CURTIS), and that time for debate thereon not extend beyond 6 p.m., Monday.

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

Mr. BYRD of West Virginia. I ask unanimous consent that time on amendments to H.R. 7109 be limited to 1 hour on each amendment, the time to be equally divided between and controlled by the mover of the amendment and the manager of the bill, the Senator from Nevada (Mr. CANNON), with the exception of amendment No. 233 by the Senator from Minnesota (Mr. MONDALE), on which amendment I ask unanimous consent that time be limited, under the same conditions, to 2 hours.

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

Mr. BYRD of West Virginia. With a further exception, Mr. President, of amendment No. 223 by the Senator from New York (Mr. JAVITS), with respect to which time thereon be limited to 30 minutes, under the same conditions with respect to controlled time.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time on all amendments to amendments be limited to 30 minutes, the time to be equally divided between the mover of the amendment in the second degree and

the distinguished manager of the bill, the Senator from Nevada (Mr. CANNON).

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time on all amendments be charged against the time on the bill, H.R. 7109.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there be an exception to the last previous request, that with respect to the Mondale amendment No. 233, 1 hour of the 2 hours allotted on that amendment be utilized and charged against the bill on Monday next and that the remaining 1 hour be reserved until Tuesday next.

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

Mr. BYRD of West Virginia. Mr. President, I call attention to a further exception. I ask unanimous consent that time on the amendment of the Senator from New York (Mr. JAVITS), No. 223, not be charged against the time on the bill on Monday next, but that that time be reserved until Tuesday next.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Tuesday next, immediately following the recognition of the two leaders under the standing order, the Senate proceed to the consideration of the resolution continuing appropriations beyond the end of the fiscal year.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, at the expiration of the 4 hours which have previously been allotted thereto by consent agreement, a vote occur on the continuing resolution.

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

Mr. BYRD of West Virginia. With this proviso, Mr. President, that in the event Senators wish to yield back time on the continuing resolution, they may do so and that the vote then occur thereon.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon the disposition of the continuing resolution on Tuesday next, the Senate resume its consideration of H.R. 7109, the authorization for NASA, and that the amendment by the Senator from Minnesota (Mr. MONDALE), No. 233, then become the pending question and that the remaining 1 hour reserved thereon begin running.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon the disposition of the amendment No. 233 of the Senator from Minnesota (Mr. MONDALE), on Tuesday next, the Chair lay before the Senate the amendment of the Senator from New York (Mr. JAVITS), No. 223, and that time thereon then begin running.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon disposition of the amendment of the Senator from New York (Mr. JAVITS) No. 223, on Tuesday next, the Senate proceed to a final vote on H.R. 7109, with the understanding that any Senator may, of course, offer an amendment at that time if he so desires, but without any time for debate thereon because the time will have expired for debate on the bill.

The PRESIDING OFFICER. Will the Senator ask unanimous consent to waive rule XII.

Mr. BYRD of West Virginia. Yes, Mr. President, I thank the Chair for calling that to my attention. I ask unanimous consent that rule XII be waived, with respect to the requirement for a quorum call.

The PRESIDING OFFICER. Without objection it is so ordered, and without objection, the original unanimous-consent request is granted.

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

Mr. President, I ask unanimous consent that upon the disposition on Tuesday next, of H.R. 7109, the authorization for NASA, the Senate proceed to the consideration of S. 991, the saline water conversion measure.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon the disposition on Tuesday next of S. 991, the saline water conversion measure, the Senate then proceed to the consideration of Calendar Order No. 226, H.R. 7960, the authorization for the National Science Foundation.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, in view of the scheduling of the various measures, and in view of the fact that time agreements have been entered into thereon, the Pastore rule of germaneness be waived during the entire day on Monday next and during the entire day on Tuesday next.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to modify the previous consent agreement in the following minor respects:

I ask unanimous consent that time on the continuing resolution on Tuesday next be 4 hours, rather than not to exceed 4 hours.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the close of the 4 hours, the vote thereon, if—and only if—it be a yea-and-nay vote, be deferred until immediately following the vote on H.R. 7109, the authorization for NASA.

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

The unanimous-consent agreement reads as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That, during the consideration of S. 991, the saline water bill, debate be limited to 3 hours to be equally divided and controlled by the Senator from Washington (Mr. Jackson) and the Senator from Colorado (Mr. Allott). Provided that debate on amendments to the bill be limited to 1 hour to be equally divided and controlled by the mover of the amendment and the manager of the bill (Mr. Jackson). *Provided further*, That debate on all amendments to amendments be limited to 20 minutes to be equally divided and controlled between the mover of the amendments and the manager of the bill. *Provided further*, That time on all amendments shall come out of the 3 hours on the bill. *Provided further*, That no amendments not germane shall be received, and that time from the bill may be allotted to any motion or appeal except a motion to table.

Ordered further, That during the consideration of H.R. 7960, the National Science Foundation bill, debate be limited to 1 hour to be equally divided and controlled by the Senator from Massachusetts (Mr. Kennedy) and the Senator from New York (Mr. Javits). *Provided*, That debate on amendments be limited to 10 minutes to be equally divided and controlled by the mover of the amendment and the manager of the bill (Mr. Kennedy). *Provided further*, That time on all amendments shall come out of the 1 hour on the bill, and that time may be yielded from the bill to any motion or appeal except a motion to table.

Ordered further, That during the consideration of H.R. 7109, the NASA authorization bill, on Monday, June 28, 1971, time be equally divided and controlled by the Senator from Nevada (Mr. Cannon) and the Senator from Nebraska (Mr. Curtis), such time to run from the laying down of the bill until 6:00 p.m. on June 28, 1971. *Provided*, That debate on amendments to the bill be limited to 1 hour to be equally divided and controlled by the mover of the amendment and the manager of the bill (Mr. Cannon), with the exception of two amendments, Nos. 233 by the Senator From Minnesota (Mr. Mondale) and Number 223 by the Senator from New York (Mr. Javits). *Provided*, That debate on the Mondale amendment shall be limited to 2 hours to be equally divided and controlled by the Senator from Nevada (Mr. Cannon) and the Senator from Minnesota (Mr. Mondale), 1 hour to come from the time allotted on the bill and 1 hour to come on Tuesday, June 29, 1971. *Provided further*, That debate on the Javits amendment shall be limited to 30 minutes to be equally divided and controlled by the Senator from New York (Mr. Javits) and the Senator from Nevada (Mr. Cannon), such time to come on Tuesday, June 29, 1971. *Provided further*, That debate on all amendments to amendments be limited to 30 minutes to be equally divided and controlled between the mover of the amendment and the manager of the bill (Mr. Cannon), with the time on all amendments to come from the time allotted to the bill on Monday, June 28, 1971.

Ordered, That during the consideration of the continuing resolution on appropriations for 1972 (H.J. Res. 742), on Tuesday, June 29, 1971, time for debate thereon shall be 4 hours to be equally divided and controlled by the Senator from Louisiana (Mr. Ellender) and the Senator from North Dakota (Mr. Young). *Provided, however*, That debate on any amendment to the resolution shall be limited to 1 hour to be equally divided and controlled by the mover of the amendment and the manager of the resolution (Mr. Ellender) and time for debate on amendments to amendments be limited to 30 minutes to be equally divided and controlled by the mover of the amendment in the second degree and the manager of the resolution. But time for debate on all amendments shall come out of the 4 hours. *Provided further*, That the Senators in control of the time on the resolution may allot time therefrom to any Senator on any amendment, motion, or

appeal with the exception of a motion to lay on the table.

Ordered further, That on Tuesday, June 29, 1971, after the leaders have been recognized the Chair will lay before the Senate H.J. Res. 742. Following the 4 hour debate no vote will occur and the Chair will lay before the Senate amendment No. 233 and following the disposition of this amendment, amendment No. 223 will be laid before the Senate. Following the disposition of this amendment, the Senate will proceed to vote on H.R. 7109. Following this vote, the Senate will immediately vote on H.J. Res. 742. Following this vote, the Chair will lay before the Senate H.R. 7960. (June 24, 1971)

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

PROGRAM

Mr. BYRD of West Virginia. Mr. President, even though I, just a short while ago, completed the various unanimous-consent requests which speak for themselves, I think I ought to state the program because it might be of help to Senators and their staff personnel if they can read it in the RECORD.

Mr. President, the Senate will convene on Monday next at 10 a.m. Following the recognition of the two leaders under the standing order, the Senator from Connecticut (Mr. RIBICOFF) and the Senator from New Hampshire (Mr. MCINTYRE) will be recognized each for not to exceed 15 minutes, and in the order stated.

Following the remarks of the two Senators, the Senate will proceed to the consideration of morning business. The statements therein will be limited to 3 minutes. The period for the transaction of routine morning business will not extend beyond 11 a.m. At 11 a.m., or at such time as the period for the transaction of routine morning business is closed, the Chair will lay before the Senate the unfinished business, Calendar No. 142, H.R. 7109, the authorization for NASA. The time thereon will be controlled and will continue no later than 6 p.m. that day. Amendments may be called up during the day and voted upon. The time on any amendment will be limited to 1 hour, with time on amendments in the second degree limited to 30 minutes, the time to be charged against the time on the bill.

When the Senate completes its business on Monday, it will stand in recess until 9 o'clock on Tuesday morning next. Immediately following the recognition of the majority and minority leaders on Tuesday morning next, the Chair will lay before the Senate the resolution continuing appropriations beyond the end of the fiscal year. The time on that continuing resolution will be limited to 4 hours, to be equally divided and controlled. The time on any amendment thereto will be limited to 1 hour. The time on any amendment to an amendment will be limited to 30 minutes. Time on all amendments will be charged against time on the resolution.

At the conclusion of the 4 hours, or at about 1 p.m., the continuing resolution will be temporarily laid aside, if a yea-and-nay vote is ordered thereon, and the Senate will then resume its consideration of H.R. 7109, the authorization for NASA.

The pending business before the Senate at that time will be amendment No. 233 by the Senator from Minnesota (Mr. MONDALE), on which there is a time agreement reserving 1 hour. Upon the disposition of the Mondale amendment No. 233 on Tuesday, the Senate will proceed to the consideration of amendment No. 223 by the Senator from New York (Mr. JAVITS), on which there is a time limitation of 30 minutes.

Upon the disposition of the Javits amendment, the Senate will proceed, with no time remaining for debate, to the vote on H.R. 7109, the authorization for NASA, it being clearly understood that any Senator may at the conclusion of the action on the Javits amendment offer an amendment without any time for debate, but he would be entitled to a vote on his amendment.

On the disposition of H.R. 7109, the authorization for NASA on Tuesday next, the Senate will then vote, if a yea-and-nay vote has been ordered, on the continuing resolution. Let it be understood that if no yea-and-nay vote is ordered on the continuing resolution, it will have been disposed of at the conclusion earlier of the 4 hours allotted thereto.

Mr. President, upon the disposition of the NASA authorization and/or the disposition of the continuing resolution, at that particular time, the Senate will proceed to the consideration of S. 991, the saline water bill, with a 3-hour time limitation thereon, the time on amendments limited to 1 hour, and amendments in the second degree to 20 minutes, the time to be charged against the time allotted to the bill.

Mr. President, after the disposition of the saline water bill on Tuesday next, the Senate will then proceed to the authorization for the National Science Foundation, H.R. 7960, on which there is a time limitation of 1 hour, with time on any amendments limited to 10 minutes—to come out of the time on the bill.

As the distinguished majority leader stated earlier, on the disposition of these measures on Tuesday next, the Senate will stand in adjournment until 9 a.m. Wednesday next.

The program for Wednesday next is not now clear, but it is hoped that the Treasury appropriation bill will be ready for action, along with other measures.

Let me remind Senators also of the statement by the distinguished majority leader that it is hoped that the Senate will complete its calendar business on Wednesday next, prior to the holiday, in which case it would not be in session on Thursday. If it does not complete its business on Wednesday next, then it will do so on Thursday next.

Mr. President, I express appreciation to the Chair, to Senators, and to the officers of the Senate for their patience. It is a complicated unanimous-consent agreement and a detailed program for Monday and Tuesday.

ADJOURNMENT TO 10 A.M. MONDAY, JUNE 28, 1971

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 10 a.m. Monday next.

The motion was agreed to; and (at 6 o'clock and 19 minutes p.m.) the Senate adjourned until Monday, June 28, 1971, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 24 (legislative day of June 23), 1971:

U.S. DISTRICT COURTS

Charles L. Brieant, Jr., of New York, to be a U.S. district judge for the southern district of New York, vice John F. McGohey, retired.

DEPARTMENT OF JUSTICE

William S. Sessions, of Texas, to be U.S. attorney for the western district of Texas for the term of 4 years, vice Seagal V. Wheatley, resigning.

FEDERAL HOME LOAN BANK BOARD

Carl O. Kamp, Jr., of Missouri, to be a member of the Federal Home Loan Bank Board for the term expiring June 30, 1975. (Reappointment.)

DEPARTMENT OF DEFENSE

Richard S. Wilbur, of Illinois, to be an Assistant Secretary of Defense.

IN THE ARMY

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be first lieutenant

Bratt, Robert A., [redacted]

To be second lieutenant

Christie, James R., [redacted]

The following-named distinguished military students for appointment in the Regular Army of the United States, in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2106, 3283, 3284, 3286, 3287, 3288, and 3290:

Barnes, Larry A., [redacted]
Bilbo, Jon F., [redacted]
Boyd, Robert P. III, [redacted]
Bray, Richard D., [redacted]
Brooks, Frederick A., [redacted]
Buske, Ronald L., [redacted]
Carlson, Charles G., [redacted]
Carroll, John M., [redacted]
Carter, James S. R., [redacted]
Cash, Dean W., [redacted]
Chatham, Stuart L., [redacted]
Christianson, Harry W., [redacted]
Comin, Larry E., [redacted]
Davis, Lawrence H., [redacted]
Ferschl, Robert T., [redacted]
Futia, Anthony J., [redacted]
Gorman, Lewis E. III, [redacted]
Gossett, Donald, [redacted]
Grover, Joel M., [redacted]
Henson, John A., [redacted]
Hilts, Barry W., [redacted]
Jackson, Robert W., [redacted]
Janski, Larry W., [redacted]
Jones, Oscar L., Jr., [redacted]
Karczewski, Leonard, [redacted]
Kolp, Alvin A., [redacted]
Lavy, Howard B., Jr., [redacted]
Lindsey, Norman H., [redacted]

Long, William D., [redacted]
Lyday, Richard L., [redacted]
McConnell, Thomas D., [redacted]
Mills, Glenn M., [redacted]
Mongeon, Daniel G., [redacted]
Moore, James K., [redacted]
Novier, Frank H., [redacted]
Oatis, Roosevelt, III, [redacted]
Orme, Terry J., [redacted]
Parker, Robert C., [redacted]
Paul, Walter, [redacted]
Pence, William H., [redacted]
Pilipick, Robert G., [redacted]
Poole, Cecil H., Jr., [redacted]
Potts, Timothy C., [redacted]
Pugh, Peter J., III, [redacted]
Rush, James R., [redacted]
Santos, Daniel, Jr., [redacted]
Savage, Michael W., [redacted]
Schiller, Thomas O., [redacted]
Scofield, Kenneth E., [redacted]
Sennick, David H., [redacted]
Smith, Anthony C., [redacted]
Stewart, Larry D., [redacted]
Stolze, Patrick C., [redacted]
Stone, James W., [redacted]
Swenson, Gerald B., [redacted]
Tom, George E., III, [redacted]
Topalian, Paul C., [redacted]
Vanbuskirk, James H., Jr. [redacted]
Yaws, Neil S., [redacted]
Young, Donald L., [redacted]
Zerkow, Paul F., [redacted]

The following-named scholarship students for appointment in the Regular Army of the United States in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2107, 3283, 3284, 3286, 3287, 3288, and 3290:

Ackerly, William G., Jr., [redacted]
Arnold, Jackie R., [redacted]
Bieth, David J., [redacted]
Clark, Stephen C., [redacted]
Crow, William A., [redacted]
Cummins, Paul G., [redacted]
Davis, David A., [redacted]
Dexter, William T., Jr., [redacted]
Finnegan, Jeffrey G., [redacted]
Flannery, Joseph G., [redacted]
Frazo, Ernest R., [redacted]
Goettlich, Walter C., [redacted]
Haring, John H., [redacted]
Haynes, Alan L., [redacted]
Hopkins, Charles A., [redacted]
Jeffress, Michael B., [redacted]
Liebner, Francis A., [redacted]
McCarthy, Stephen F., [redacted]
McDonald, William T., [redacted]
McNamara, Thomas M., [redacted]
Marsh, Lawrence R., [redacted]
Multhauf, Jay R., [redacted]
Nicholas, Daniel D., [redacted]
Ottley, David L., [redacted]
Pekula, Walter E., Jr., [redacted]
Rhodes, Tom C., [redacted]
Richardson, Dana T., [redacted]
Rybolt, Richard R. L., [redacted]
Sahlin, Carl T., Jr., [redacted]
Simpson, Michael G., [redacted]
Storrs, Norman W., [redacted]
Fitzgerald, William, [redacted]
Terry, Bennie L., [redacted]
Tullbane, Joseph D. III, [redacted]
Wagner, Michael J., [redacted]
Werle, Christopher P., [redacted]
Woolfolk, Rogers J., [redacted]
Zurcher, John W., [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate June 24 (legislative day of June 23), 1971:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Laurence E. Lynn, Jr., of California, to be an Assistant Secretary of Health, Education, and Welfare.

U.S. TARIFF COMMISSION

Catherine May Bedell, of Washington, to be a member of the U.S. Tariff Commission for the remainder of the term expiring June 16, 1974.

Joseph O. Parker, of Virginia, to be a member of the U.S. Tariff Commission for the term expiring June 16, 1977.

EXTENSIONS OF REMARKS

IS THE UNITED STATES TO LOSE A DOMINANT POSITION IN STOL DEVELOPMENT AS IT DID ON SST?

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, June 24, 1971

Mr. RANDOLPH. Mr. President, the Congress has—unwisely, in my opinion—thwarted U.S. efforts to be at least competitive, if not dominant in the realm of supersonic air transport.

I am wondering now if our country, with both the executive and the legislative branches seemingly dillydallying, is on the verge of accepting a second place—or lower—position in another critical aeronautical area; namely, in short-haul air travel via STOL—short takeoff and landing—equipment and specialized system.

This Senator has long been an advocate of acceleration of research and development of STOL equipment and systems in this country that would be fully compatible with the jet age. I have been disappointed that so little attention has been paid to this vital area of aeronautics by so few of the airlines and by the airframe equipment manufacturers—and by the several recent administrations of the Federal Government.

Now, Mr. President, as we have been reading of Canadian progress—aggressive progress—by the Canadians, I am even more disappointed with STOL progress in the United States.

Perhaps we can afford to slumber in the realm of the supersonic transport while other nations leave us in the supersonic wake. I believe, however, we would be excessively derelict if we in the United States are complacent and permit Canada or any other nation to pass us and go to the forefront of the developing STOL industry.

These are vital programs for the movement of people from place to place on this earth via air. Are we neglecting this important program of direct benefits for our own people while spending excessively of our money, time, and talent on exploration of the moon and the gathering of moon dust and moon rocks? I am afraid that the answer is in the affirmative—that we give space exploration higher priority than the people's program of supersonic travel and short-haul travel.

As mentioned, there is current published documentation to support the Canadian progress in the STOL equipment and system development—a progress that makes ours in the United States pale by comparison, so far as I have been able to determine. I call attention especially to an article, "For Quick Hops Between Big Cities—Look At Canada's Plan," in the June 7, 1971, issue of U.S. News & World Report. And there is a much more complete and thoroughly informative article in the June 1971 issue of Science Dimension, a magazine published by the National Research Council of Canada.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the two articles mentioned.

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

FOR QUICK HOPS BETWEEN BIG CITIES—LOOK AT CANADA'S PLAN

OTTAWA.—The Canadian Government is considering the investment of 150 million dollars in an air-travel system designed to meet Canadian and U.S. needs for inexpensive transportation over distances of 500 miles or less.

The project—known as STOL, for "short take-off and landing"—will use propeller-driven aircraft that can land on airstrips of 2,000 feet. Air service can thus be provided inside cities or adjacent to smaller towns.

The Canadian Government announced on May 13 it is moving "as quickly as possible" on the first phase of its operational plan—establishment of an experimental shuttle service between Montreal and Ottawa, a distance of about 125 miles. It will use De Havilland's Twin Otters, carrying 14 passengers.

Landing terminals would be the parking lot of Montreal's 1967 exposition and probably Rockliffe Airport in Ottawa.

Air Canada, the Government-owned airline, will operate the service.

Second phase of the program would be the introduction of De Havilland's 48-seat DHC-7. A 70-passenger STOL is on the drawing boards.

TOTAL SYSTEM

As seen here, the STOL system goes beyond the mere manufacture and sale of aircraft. The Canadians hope to offer a total system, including aircraft, navigational aids, air-traffic control, airports and other supporting services.

Use of STOL, it is expected, would overcome the disadvantages of airports far from city centers, and the high cost of air service between cities near one another. It could cut highway traffic.

The STOL system, Canadians believe, is especially tailored to produce competitive transportation service in the U.S. Northeast corridor—mainly New York to Boston and possibly Washington.

The Canadian initiative is in part inspired by the drop-off of U.S. defense orders for the Vietnam war. The aerospace industry here is suffering from unemployment.

The industry is seen to fit particularly into the needs of the Montreal area, where unemployment and unrest are highest in Canada.